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IN THE
Supreme Court of the United States

OCTOBER TERM, 1997

CASS COUNTY, *et al.*

v.

Petitioners,

LEECH LAKE BAND OF CHIPPEWA INDIANS,
Respondent.

On Writ of Certiorari to the
United States Court of Appeals
for the Eighth Circuit

BRIEF FOR LEWIS COUNTY, IDAHO;
AITKIN COUNTY, BENTON COUNTY,
CROW WING COUNTY, ISANTI COUNTY,
KANABEC COUNTY, MAHNOMEN COUNTY,
MILLE LACS COUNTY, MORRISON COUNTY,
PINE COUNTY, AND SHERBURNE COUNTY,
MINNESOTA; GLACIER COUNTY, LAKE COUNTY,
AND ROOSEVELT COUNTY, MONTANA;
LYMAN COUNTY, SOUTH DAKOTA;
DUCHESNE COUNTY AND UINTAH COUNTY, UTAH;
AMICI CURIAE, IN SUPPORT OF PETITIONERS,
CASS COUNTY, MINNESOTA, *ET AL.*

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OCTOBER TERM, 1997

No. 97-174

CASS COUNTY, MINNESOTA, *et al.*,
v. *Petitioners,*

LEECH LAKE BAND OF CHIPPEWA INDIANS,
Respondent.

On Writ of Certiorari to the
United States Court of Appeals
for the Eighth Circuit

BRIEF OF THE
NATIONAL ASSOCIATION OF COUNTIES,
NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL LEAGUE OF CITIES,
NATIONAL CONFERENCE OF STATE LEGISLATURES,
U.S. CONFERENCE OF MAYORS, INTERNATIONAL
CITY/COUNTY MANAGEMENT ASSOCIATION,
INTERNATIONAL MUNICIPAL LAWYERS
ASSOCIATION, AND COUNCIL OF
STATE GOVERNMENTS AS *AMICI CURIAE*
IN SUPPORT OF PETITIONERS

INTEREST OF THE *AMICI CURIAE*

Amici are organizations whose members include state and local governments and officials throughout the United

States.¹ *Amici* and their members have a vital interest in legal issues that affect the powers and responsibilities of state and local governments.

Amici are concerned that serious erosion of *ad valorem* tax bases could result if Tribes can unilaterally assert sovereignty over land previously held by private parties, in derogation of well-established state and local authority to tax real property. The decision below allows Tribes to create a tax-exemption on their own volition simply by purchasing from private parties land that Congress had previously ordered to be sold for the benefit of the Tribes. Tribes have purchased land from non-Indians to develop casinos, hotels, malls and convention centers, asserting that their projects are immune from state and local government real estate taxes. See discussion *infra* at 22-23, 26-27. In addition, in at least one instance, non-Indians have entered into a leaseback arrangement with a Tribe for prime resort property in an effort to avoid state and local taxes. See *id.* at 26.

By allowing Indians a new power unilaterally to expand their federal immunity from state taxation, the decision below also allows Indians to circumvent statutory procedures specifically designed by Congress to govern the reestablishment of federal trust status, 25 U.S.C. § 465, and the Secretary of the Interior's consideration of the impact on state and local governments of removing property from the tax rolls, see 25 C.F.R. § 151.10(e) (implementing 25 U.S.C. § 465 and expressly providing for state and local government comment on "the impact on

¹ Pursuant to Rule 37.3 of the Rules of this Court, the parties have consented to the filing of this brief *amicus curiae*. Their letters of consent have been filed with the Clerk of the Court.

Pursuant to Rule 37.6 of the Rules of this Court, *amici* state that no counsel for a party has authored this brief in whole or in part, and that no person or entity, other than the *amici*, their members, or their counsel, has made a monetary contribution to the preparation or submission of this brief.

the State and its political subdivisions resulting from the removal of the land from the tax rolls"). The power asserted by the Tribe to take real estate off the tax rolls thus undermines the longstanding principle of federal superintendence over tribal activities and threatens to cripple the ability of affected communities to fund vital public services such as schools, police and fire protection.

Because of the importance of this issue to state and local governments, *amici* submit this brief to assist the Court in its resolution of the case.

STATEMENT

The court of appeals held that Cass County could not assess *ad valorem* taxes on certain parcels of land located within the boundaries of a Chippewa reservation because the Leech Lake Band had recently repurchased them from private parties. The court reached this result despite the fact that Congress had, in the Nelson Act of 1889, ordered the sale of these parcels to the general public and placed the proceeds of those sales in trust for the Tribe's benefit.

A. Federal Policy to Allot Lands and Assimilate Indians

Congress' decision more than a century ago to alienate the parcels in question from tribal control was part of a major movement in federal Indian policy from the 1880's until the early 1930's—allotment of reservation land to individual Indians with a view toward integration of individual Indians into the expanding non-Indian frontier. When Indian reservations initially were established, the United States held the lands of the Indian tribes in trust. In the 1880's, however, Congress adopted a policy of patenting land, that is, conveying parcels from federal ownership, by allotting the Tribes' common lands to individual members in severalty. See *County of Yakima v. Yakima Nation*, 502 U.S. 251, 254 (1992). The allotment policy was designed to encourage Indians to become

self-sufficient yeoman farmers and to open land to non-Indian settlers. *See id.*

Congress experimented extensively with allotment as early as 1854.² But it was not until 1887 that Congress universalized allotment under the General Allotment (Dawes) Act, ch. 119, 24 Stat. 388 (1887) (codified at 25 U.S.C. §§ 331-34, 339, 341-42, 348-49, 354, 381) ("Dawes Act").³ Under the Dawes Act, the United States could survey tribal lands and allot to "each head of a family," in severalty, up to 80 acres for farming and 160 acres for grazing. Dawes Act § 1, 24 Stat. at 388. The Secretary of the Interior was then authorized to negotiate for the "purchase and release by said tribe" of the large portions of the reservation remaining after allotment, with the proceeds of such residual land sales to be held in federal trust for the benefit of the Tribe. Dawes Act § 5, 24 Stat. at 389; *Hagen v. Utah*, 510 U.S. 399, 402 (1994). Consistent with its desire to facilitate westward expansion of the growing nation, Congress specified that all "lands adapted to agriculture" made available through this "purchase and release" process were to be used "for the sole purpose of securing homes to actual settlers." Dawes Act § 5, 24 Stat. at 389.

Congress further provided that land allotted under the Dawes Act was to be held by the United States in trust for the individual Indians for 25 years and then patented "in fee, discharged of said trust and free of all charge or

² *See* Treaty with the Confederated Ottoes and Missourias, Mar. 15, 1854, 10 Stat. 1038 (allotting lands in severalty and authorizing the sale of the residue for the Tribe's benefit); *see also* Felix S. Cohen's *Handbook of Indian Law* 98-102 (Bernard Strickland, ed. 1982) (hereinafter "Cohen").

³ Congress later extended the provisions of the Dawes Act to "all lands heretofore purchased or which may be purchased by authority of Congress for the use or benefit of any individual Indian or band or tribe of Indians." Act of Feb. 14, 1923, ch. 76, 42 Stat. 1246 (1923) (codified at 25 U.S.C. § 335).

incumbrance whatsoever." *Id.* Furthermore, Congress made the allotted land subject to state laws of "descent and partition" and gave the Indians on such lands "the benefit of and [made them] subject to the laws, both civil and criminal, of the State or Territory in which they may reside." *Id.* at § 6.⁴ Congress subsequently amended the Dawes Act by the Burke Act of 1906, ch. 2348, 34 Stat. 182 (1906) (codified at 25 U.S.C. § 349), which clarified that "state civil and criminal jurisdiction would lie . . . when the lands have been conveyed to the Indians by patents in fee." *County of Yakima*, 502 U.S. at 255.⁵ The Burke Act, however, expressly provided for state control and taxation of allotted lands for which the Secretary had issued fee patents before the trust period ended, known as "prematurely patented lands." *See County of Yakima*, 502 U.S. at 264.

B. The 1889 Nelson Act for the Chippewa in Minnesota

Responding in part to continuing pressure for expanded settlement, Congress sought to integrate Indians into non-

⁴ Congress later provided that all lands which had trust or other restrictions and were sold with the approval of the Secretary by the heirs of allottees are expressly "subject to taxation under the laws of the [situated] State or Territory." Act of May 27, 1902, ch. 888, § 7, 25 Stat. 245, 275 (codified at 25 U.S.C. § 379).

⁵ Congress passed the Burke Act in response to a decision of this Court, *In re Heff*, 197 U.S. 488, 503, 509 (1905), *overruled*, *United States v. Nice*, 241 U.S. 591, 601 (1916), which held that Indians received "emancipation from Federal control" immediately upon allotment. The Burke Act proviso specifically authorizes:

the Secretary of the Interior . . . in his discretion, . . . whenever he shall be satisfied that any Indian allottee is competent and capable of managing his or her affairs at any time to cause to be issued to such allottee a patent in fee simple, and thereafter all restrictions as to sale, incumbrance, or taxation of said land shall be removed and said land shall not be liable to the satisfaction of any debt contracted prior to the issuing of such patent

25 U.S.C. § 349 (emphasis added).

Indian society and to provide new land for settlement or commercial exploitation by non-Indians by enacting numerous tribe-specific surplus land allotment acts "to force Indians onto individual allotments carved out of reservations and to open up unallotted lands for non-Indian settlement." *Solem v. Bartlett*, 465 U.S. 463, 467 (1984).⁶ Often without explicit reference to the Dawes Act, these Acts provided for the sale of lands remaining after allotment and furthered Congress' goals of promoting assimilation of the Indians and ending the reservation system. *See Cohen*, at 132-38.⁷ The inevitable result of sales of individual parcels of reservation land to non-Indians was that "reservations became checkerboarded as the sale of surplus lands to whites isolated individual Indian allotments." *See id.* at 137.

⁶ *See, e.g.*, Fort Berthold Reservation Act, ch. 264, 36 Stat. 455 (1910); Rosebud Sioux Act, ch. 260, 36 Stat. 448 (1910); Pine Ridge Reservation Act, ch. 257, 36 Stat. 440 (1910); Flathead Reservation Amendment Act, ch. 156, 36 Stat. 296 (1910); Cheyenne River and Standing Rock Reservations Act, ch. 218, 35 Stat. 460 (1908); Rosebud Sioux Act, ch. 2536, 34 Stat. 1230 (1907); Oklahoma Osage Allotment Act, ch. 3572, 34 Stat. 539 (1906); Colville Reservation Act, ch. 1126, 34 Stat. 80 (1906); Wind River Reservation Act, ch. 1452, 33 Stat. 1016 (1905); Devil's Lake Reservation Act, ch. 1620, 33 Stat. 319 (1904); Flathead Reservation Act, ch. 1495, 33 Stat. 302 (1904); Rosebud Sioux Act, ch. 1484, 33 Stat. 254 (1904); Colville Reservation Act, ch. 140, 27 Stat. 62 (1892); Appropriations Act of March 3, 1891, ch. 543, 26 Stat. 989 (1891) (containing agreements with the Fort Berthold Indians, §§ 23-25; Sisseton and Wahpeton Sioux, §§ 26-30; and Montana Crow, §§ 31-34); Great Sioux Act, ch. 405, 25 Stat. 888 (1889). After *Lone Wolf v. Hitchcock*, 187 U.S. 553, 567-68 (1903), in which this Court held that involuntary statutory cession of Indian lands was within Congress' powers, tribal consent to surplus land acts was not required.

⁷ Given the variation in the language of these Acts and the circumstances surrounding their passage, some of these Acts have been interpreted as having diminished the reservation's boundaries, while others merely allowed for land sales to non-Indians within the existing reservation boundaries. *See Hagen*, 510 U.S. at 410.

On January 4, 1888, within months of the enactment of the Dawes Act, Representative Nelson of Minnesota introduced a bill providing for allotments to individual Chippewa and the sale of unallotted reservation lands to non-Indians for lumbering and farming. *See* IV William W. Folwell, *A History of Minnesota* 219-24 (1930).⁸ The Nelson Act, signed into law on January 14, 1889, ch. 24, 25 Stat. 642 (1889), contained four sections governing land disposition. Under section three, land was to be allotted to individual Indian households "in conformity with [the General Allotment or Dawes Act]." *Id.* at 3. The other three sections authorized sales of surplus, unallotted lands to non-Indians based on the Tribe's "complete cession and relinquishment in writing of all title and interest" in section 1. Under sections four and five, lands valued for standing pine timber—"Pine Lands"—were to be surveyed, advertised, and sold at public auction. *Id.* at §§ 4 & 5. Under section six, "agricultural lands" were to be sold "to actual settlers only under the provisions of the homestead law." *Id.* at § 6. The United States held the proceeds of these sales in trust for the benefit of the Chippewa with the interest paid to Indian families and used to support "a system of free schools," and the principal to be paid to tribal members in 50 years. *Id.* at § 7; *see also* IV Folwell, *History of Minnesota*, at 221-22.

C. The Indian Reorganization Act of 1934

Nearly 50 years after the Dawes Act, Congress enacted the Indian Reorganization (Wheeler-Howard) Act of 1934, ch. 576, 48 Stat. 984 (1934) ("Reorganization Act") (codified as amended at 25 U.S.C. §§ 461-479), which reversed direction and abandoned the policy of integrating Indians into non-Indian society. *See Mattz v. Arnett*, 412 U.S. 481, 497 n.18 (1973). The Reorganization Act

⁸ The Nelson Act was amended by an Act of June 27, 1902, ch. 1157, 32 Stat. 400 and an Act of June 25, 1910, ch. 431, § 27, 36 Stat. 855, 862, both of which related primarily to disposition of "Pine Lands" and later homesteading on those lands.

prohibited further allotments and extended indefinitely any existing restrictions on alienation of federal trust lands. Reorganization Act §§ 1-2. The Act further provided the United States with authority to restore the trust status of land within or contiguous to reservations. Reorganization Act § 5 (codified at 25 U.S.C. § 465).

The Reorganization Act did not, however, attempt to reverse the multitude of land transactions under the Dawes Act or any of the other allotment acts that had authorized the alienation of nearly two-thirds of former Indian lands. *See County of Yakima*, 502 U.S. at 255-56; Cohen, at 138. Indian reservations shrank by approximately 90 million acres from 1887 to 1934 due to sales by allottees to non-Indians, cession of land to the United States, and other sales to non-Indian settlers and businesses. *See* Cohen, at 138. The resulting checkerboard pattern of Indian and non-Indian ownership within reservations' former boundaries thus continues. Today, only 54.1% of the population of reservations are American Indians, Eskimos and Aleuts. *See* Bureau of Census, U.S. Dep't of Commerce, 1990 *Census of Population: General Population Characteristics: American Indian and Alaska Native Areas* 1, tbl. 1 (1992). For example, Osage County, Oklahoma, which borders Tulsa, is coextensive with the Osage Reservation, but Indians constitute only 14.8% of its population. *See id.* Similarly, the Uintah Indian Reservation analyzed in *Hagen v. Utah*, 510 U.S. 399 (1994), is 85% non-Indian and contains Roosevelt City, which is 93% non-Indian. *Id.* at 420-21.

D. Proceedings Below

This case involves twenty-one parcels within the reservation of the Leech Lake Band of Chippewa Indians in Cass County, Minnesota, thirteen of which were originally allotted to Indians, seven of which were sold as pine land, and one of which was sold as a homestead. *See* Pet. App. 33. Pursuant to the Nelson Act, each of these parcels was alien-

ated from federal trust status by allotment, fee patenting and subsequent sale, or by direct sale in fee to non-Indians. *See id.* During this period of non-Indian ownership, Cass County had authority to assess and collect non-discriminatory *ad valorem* taxes on each parcel.

The Leech Lake Band has recently repurchased in fee several parcels lying within the boundaries of its reservation. Utilizing the authority in section five of the Reorganization Act, the Band has placed some of its new purchases, including the site of its casino, into federal trust status, which clearly exempts those parcels from state taxation. *See* Pet. App. 24 n.14. But the Band has not obtained federal trust status for the parcels at issue in this case and holds all of them in fee simple. *See id.* After the County assessed *ad valorem* taxes on the Band's fee lands and the Band paid under protest to avoid foreclosure, the Band brought this action seeking a declaration that these parcels are immune from *ad valorem* taxes, an injunction against such taxes, and refund of the amounts paid. *See* Pet. App. 33-34.

The district court held that all of the parcels are taxable because Congress had alienated all of the parcels from Indian control and "alienation is the touchstone" for finding taxability under *County of Yakima v. Yakima Indian Nation*, 502 U.S. 251 (1992). Pet. App. 37. The court of appeals agreed that the lands allotted to individual Indians under the terms of the Dawes Act are taxable under *County of Yakima*, but reversed the district court with respect to the parcels that Nelson Act §§ 4-6 designated for homesteading and pine harvesting. Pet. App. 22-23. The court of appeals held that Congress' action in ordering the public sale of these parcels was an insufficient manifestation of its intent to subject them to county taxing authority because sections four through six of the Nelson Act did not explicitly incorporate the Dawes Act or make any reference to state tax immunity. *Id.* The anomalous consequence of the court of appeals' decision is

that parcels originally allotted to individual Chippewa under the Nelson Act remain taxable, but the pine and homestead lands sold to non-Indians under the Nelson Act over a century ago have now become tax-exempt.

SUMMARY OF ARGUMENT

I. Indian tribes enjoy immunity from state and local taxation only as an extension of congressional power. See *Cotton Petroleum Corp. v. New Mexico*, 490 U.S. 163, 173 (1989); *Montana v. Blackfeet Tribe*, 471 U.S. 759, 764 (1985). Therefore, when Congress has expressed its intent to allow state or local taxation, Indian tribes have no independent basis for claiming exemption from state authority. A "categorical allowance of State taxation [exists] when it has in fact been authorized by Congress." *County of Yakima*, 502 U.S. 251, 267 (1992).

In *County of Yakima*, this Court reviewed the history and legacy of federal allotment policy and the Dawes Act and held that the Act expressly allowed a county to assess *ad valorem* taxes on land owned in fee by Indians within an Indian reservation. See *id.* at 266-67. Because Congress authorized such taxation, this Court held that neither a Tribe nor an individual Indian retained any inherent power to prevent the assessment of state taxes. See *id.* at 267.

Although this case concerns land conveyed to non-Indians under one of the surplus land statutes that followed the Dawes Act, the analysis here is no different—once Congress has chosen to extinguish its protection of the Indian land, Tribes lack any power unilaterally to rekindle federal supremacy. Thus, the relevant inquiry is whether Congress intended to alienate the land from federal protection and control and whether Congress made its intention to do so clear.

Pursuant to its policy of allotment and assimilation, Congress enacted numerous statutes that allotted tribal

lands in severalty to individual Indians and thereafter provided for the sale of unallotted lands directly to non-Indian settlers and businesses. This Court has already held that Congress intended to relinquish federal protection of allotted land after the end of trust restrictions, even if Indians still owned the land. See *County of Yakima*, 502 U.S. at 267-68; *Goudy v. Meath*, 203 U.S. 146, 149 (1906). Accordingly, the Federal Government's action in selling parcels publicly to non-Indian settlers and businesses must be convincing evidence of Congress' unmistakable intent to terminate all federal protection for the lands. Once such lands were alienated from federal control and protection, they became subject to state and local *ad valorem* taxation and remain subject to such taxation unless Congress reasserts federal status through the trust process, 25 U.S.C. § 465. Accordingly, the efforts of the Leech Lake Band unilaterally to reassert immunity from *ad valorem* taxation should be rejected.

Although Congress has now reversed its policies of allotment and assimilation, it has chosen not to disturb the multitude of land transactions that occurred as a result of those policies. See *County of Yakima*, 502 U.S. at 255-56. Instead, it has offered Tribes a specific statutory method, 25 U.S.C. § 465, for the re-establishment of federal trust status, but only after due consideration by the Federal Government of the fiscal and other impacts of renewed federal immunity on the affected States and local governments. See 25 C.F.R. § 151.10(e). Because the decision below sanctions the Leech Lake Band's circumvention of Congress' prescribed mechanism for re-establishing federal trust status over Indian lands, the judgment of the court of appeals should be reversed.

II. The rule that alienability equals taxability is consistent with this Court's long-standing objective of encouraging clarity in matters of Indian taxation and facilitates the fair and efficient assessment of *ad valorem* taxation. By expressly recognizing that Congress' alienation of land

from federal control in itself manifested an intent to render such land subject to state and local *ad valorem* taxation, this Court can obviate the need for repeated, complex, and protracted litigation over the tax status of Indian-owned parcels and preclude questionable land development practices.

ARGUMENT

I. WHERE CONGRESS HAS CHOSEN TO RELINQUISH FEDERAL CONTROL AND PROTECTION OF RESERVATION LAND THROUGH ALLOTMENT OR PUBLIC SALE, THE TRIBE'S REPURCHASE OF SUCH PARCELS IN FEE DOES NOT RE-ESTABLISH FEDERAL IMMUNITY FROM STATE AND LOCAL *AD VALOREM* TAXATION

At least since *McClanahan v. Arizona State Tax Comm'n*, 411 U.S. 164 (1972), this Court has avoided "platonic notions of Indian sovereignty" and instead determined the limits of state power by reference to the applicable federal treaties and statutes. *See id.* at 172. As the various allotment and surplus land acts make plain, Congress decided long ago to end exclusive Indian sovereignty over most tribal lands by allotment or public sale. Although Congress later abandoned the policy of assimilation through allotment, Congress has not given the Tribes the power that the Leech Lake Band asserts—the power to extend federal supremacy over a State's lands by the Tribe's mere repurchase of a parcel in fee from private parties.

A. Federal Supremacy Is the Sole Source of Any Indian Immunity From State and Local Taxation

Absent express congressional authorization, the United States is immune from state and local taxation. *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 430-32 (1819). The United States shares this immunity with "the Indian tribes for whose benefit the United States holds reservation lands in trust." *Cotton Petroleum Corp.*, 490 U.S. at 175

(citing *Blackfeet Tribe*, 471 U.S. at 764). "Absent explicit congressional direction to the contrary," States thus presumptively lack jurisdiction to tax Indian property on an Indian reservation because of federal supremacy. *Oklahoma Tax Comm'n v. Sac and Fox Nation*, 508 U.S. 114, 128 (1993); *see also Bryan v. Itasca County*, 426 U.S. 373, 376 n.2 (1976); *McClanahan v. State Tax Comm'n*, 411 U.S. 164, 171 (1973); *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 148 (1973).

Given the significance of the power to tax, this Court has declined to find such congressional authorization of state taxation except where Congress has "made its intention to do so unmistakably clear." *County of Yakima v. Yakima Indian Nation*, 502 U.S. at 258; *Blackfeet Tribe*, 471 U.S. at 765. State and local taxation of Indians and Indian tribes is thus categorically allowed "when it has in fact been authorized by Congress." *County of Yakima*, 502 U.S. at 267 (rejecting application of the test established in *Brendale v. Confederated Tribes & Bands of the Yakima Indian Nation*, 492 U.S. 408 (1980), which balanced state and tribal interests in determining tribal zoning powers over non-Indians within a reservation).⁹

B. Indian Lands That Were Allotted or Sold Pursuant to the Dawes Act or Other Congressional Action Are Taxable Because Congress Made Them Alienable

1. This Court has already held in *County of Yakima*, *supra*, and *Goudy v. Meath*, 203 U.S. 146 (1906), that the General Allotment (Dawes) Act made land which was allotted and patented to Indians freely alienable after the

⁹ *See also Washington v. Confederated Tribes of Colville Reservation*, 447 U.S. 134, 177 (1980) (Rehnquist, J., concurring in part and dissenting in part) ("Either Congress intended to preempt the state taxing authorities or it did not. Balancing of interests is not the appropriate gauge for determining validity since it is that very balancing which we have reserved to Congress.").

expiration of federal trust restrictions and, therefore, unmistakably allowed States to impose *ad valorem* taxes on fee land even if it is within a reservation and held by Indians or their Tribe. See *County of Yakima*, 502 U.S. at 263-64; *Goudy*, 203 U.S. at 149. "When § 5 [of the Dawes Act] rendered the allotted lands alienable and encumberable, it also rendered them subject to assessment and forced sale for taxes." *County of Yakima*, 502 U.S. at 263-64.¹⁰ The Court confirmed this reading with the Burke Act proviso, which applies literally only to land for which the Secretary issued patents before the normal expiration of the trust period ("prematurely patented lands"), and which amended § 6 of the Dawes Act by "specifically mentioning immunity from land taxation as one of the restrictions that would be removed upon conveyance in fee" of the Indian lands. *Id.* at 259. As this Court observed in *Goudy*, only by "disregarding the act of Congress" could the Court hold that "the Indian, having property, is not subject to taxation when he is subject to all the laws, civil and criminal, of the State." 203 U.S. at 150. It would be unreasonable, this Court concluded, to impute to Congress an intention to "permit the Indian to dispose of his lands as he pleases, while at the same time releasing it from taxation." *Id.* at 149.

¹⁰ This conclusion comports with this Court's traditional understanding that the Nonintercourse Act, 25 U.S.C. § 177, stands for the rule that "the extinguishment of Indian title required the consent of the United States." *Oneida Indian Nation v. County of Oneida*, 414 U.S. 661, 678 (1973); see also *Larkin v. Paugh*, 276 U.S. 431, 433-34 (1928) (finding no incidental restrictions against alienation once the United States issues a patent). Apparently, the Band intends to assert that the Nonintercourse Act operates to restrict its ability to sell its repurchased fee parcels, rendering them not freely alienable. See Respondent's Br. in Opposition at 8-9. This position is untenable, however, because this Court in *County of Yakima* expressly found similar plots to be "alienable and encumberable" based on Congress' clear intent to make them so. *County of Yakima*, 502 U.S. at 263.

Contrary to the opinion of the court of appeals, this Court in *County of Yakima* did not hold that *only* the Burke proviso "provide[d] [the] unmistakably clear congressional intent to allow state taxation." Pet. App. 17. Rather, the Court considered the Burke proviso, which applies only to prematurely patented lands, to be "nothing more than an acknowledgment (and clarification) of the operation of § 5 with respect to all fee patented land." *County of Yakima*, 502 U.S. at 264 n.4. Accordingly, the Court found it "inconsequential" that the record did not reflect whether the parcels at issue became alienable "pursuant to the proviso." *Id.* If the court of appeals' reading were correct, then the factor which this Court considered "inconsequential"—whether the land became alienable directly under the Burke proviso—would have been necessary to decide whether each parcel was taxable.

The court of appeals, however, undertook the very type of narrow reading that *County of Yakima* rejected when the court parsed each section of the Nelson Act as if each were a separate statute, searching for explicit references to taxability. Finding no references to state taxation in the pine land or homestead provisions of the Nelson Act—which provided for the sale of land in fee to the general public—the court of appeals concluded that these very same parcels suddenly reassumed tax-exempt status when repurchased by the Band. See Pet. App. 22-23. But in so holding, the court ignored the fact that Congress did not include a provision expressly subjecting land purchased under the pine or homestead provisions of the Nelson Act to state tax authority because there was no need to do so—it would have been absurd to assume that a non-Indian settler or commercial interest who purchased the land on the open market could have continued to enjoy the land's former tax-exempt status.

2. Lands that Congress made alienable should be taxable irrespective of the method—allotment to individual Indians or sale to non-Indians—Congress used to remove

the land from federal protection. The land in question is not "land set aside for [tribal] members." *Sac and Fox Nation*, 508 U.S. at 124. Rather, it is land Congress once chose to accord federal trust status and later chose to remove from that status. Congress' policy of ending federal trust status and eliminating Indian sovereignty unmistakably demonstrates its intention that state and local governments should be able to tax these lands. Once Congress chose to end the reservation status of property and sell it on the open market, the previous federal use of and interest in the land was extinguished. *See Hagen*, 510 U.S. at 412-13. As this Court has repeatedly observed, "treaty rights with respect to reservation lands must be read in light of the subsequent alienation of those lands." *South Dakota v. Bourland*, 508 U.S. 679, 697 (1993); *Blackfeet Tribe*, 450 U.S. at 561; *see also Brendale*, 492 U.S. at 436-37 (Stevens, J.). And the effect of congressionally-authorized alienation of tribal lands is the termination of pre-existing attributes of tribal sovereignty and the creation of state taxing authority. *See Bourland*, 508 U.S. at 697; *Blackfeet Tribe*, 450 U.S. at 560 n.9.

Only the kind of "technical and narrow" statutory construction that this Court rejected in *Goudy*, 203 U.S. at 150, could lead to the conclusion that the subtle variations in the numerous surplus land acts are relevant to the current tax status of a parcel that has been bought and sold in the open market for a century. Such an approach leads to ahistorical and anomalous results. The Nelson Act is one of many Acts of Congress that provided for specific land allotments and authorized sales of surplus lands.¹¹ The intent of Congress in all of the Acts was to eliminate the reservation system and open these lands to non-Indian settlers by making these lands freely alienable. *See Montana v. United States*, 450 U.S. 544, 559 n.9 (1981) (collecting statements of multiple legislative and executive officials to the effect that allotment was intended

to "eliminate tribal relations"); Cohen, at 128-29. The "Members of Congress voting on the surplus land Acts believed to a man that within a short time—within a generation at most—the Indian tribes would enter traditional American society and the reservation system would cease to exist." *Solem*, 465 U.S. at 468.

It is at the very least revisionism to impute to Congress an intention that lands that it purposely sold into non-Indian ownership could regain federal tax immunity without its consent. Although ambiguous expressions in statutes are to be construed liberally in favor of the Indians, *see County of Yakima*, 502 U.S. at 269, canons of construction do not permit a reading that amounts to a disregard for such a clearly and repeatedly expressed congressional intention. *See Negonsott v. Samuels*, 507 U.S. 99, 110 (1993); *South Carolina v. Catawba Indian Tribe, Inc.*, 476 U.S. 498, 506 (1986); *see also Rice v. Rehner*, 463 U.S. 713, 732 (1983) (refusing to apply an Indian law canon of construction "when application would be tantamount to a formalistic disregard of congressional intent").

The holding below provides a compelling example of the anomalous results such an ahistorical approach allows. Under the court of appeals' strained reading, lands that the Nelson Act disposed of as pine or homestead lands by sale to the public are deemed tax-exempt, while lands allotted by reference to the Dawes Act's federal trust restrictions and which could only indirectly enter the open market are deemed taxable. *See Pet. App.* 22-23. Given the holding of *County of Yakima* that unrestricted fee land within a reservation held in an unbroken chain of Indian ownership since the original Indian allottee is taxable, *see* 502 U.S. at 266-67, it is exceedingly odd to suppose that Congress would have intended immunity from *ad valorem* taxation when a Tribe reacquired fee land from a non-Indian. It strains credulity to argue that Congress intended for Indian purchasers of land from private

¹¹ See note 6 *supra*, listing a small sample of these Acts.

owners to enjoy federal immunities that arose from the land's long-past trust status.

In effect, the Band argues that its tax immunity laid dormant during non-Indian ownership, but then sprang forth when the Band purchased the land. Only the fact that the purchasers were Indians makes this claim even colorable. But Indians enjoy immunity from state and local *ad valorem* taxation only derivatively from federal tax immunity. Accordingly, in order to justify its claim in this case, the Band must show a grant of congressional power that allows it to remove land from the tax base and make it part of the area over which it exercises attributes of exclusive sovereignty simply by purchasing it in fee from a private non-Indian party. This showing cannot be made.

3. The power to tax is "basic to the power of the State to exist." *Arkansas v. Farm Credit Servs.*, 117 S. Ct. 1776, 1780 (1997); *see also Board of County Comm'rs v. United States*, 308 U.S. 343, 351 (1939) (urging "due regard for local institutions and local interests" in an Indian challenge to county taxation). The taxes at issue here—non-discriminatory *ad valorem* assessments—comprise a significant portion of most local government budgets, and Indian tribes cannot be said to possess an unfettered "super-sovereign authority" to extend federal tax immunity to land that they merely purchased on the open market. *Oklahoma Tax Comm'n v. Chickasaw Nation*, 515 U.S. 450, 466 (1995) (holding that Indian tribes lack any "super-sovereign authority to interfere with another jurisdiction's sovereign right to tax income"). Any such rule would inflict serious harm on *amici's* members.

The Leech Lake Band's assertion of a tribal power to expand its tax-exempt lands, *sua sponte*, by the mere purchase of land from private parties labors hard against the great weight of this Court's Indian law decisions. In case after case, this Court has recognized that the substantial

dilution of Indian populations on reservation lands has created the need for "States and tribes [to] have concurrent jurisdiction over the same territory." *Cotton Petroleum Corp.*, 490 U.S. at 192; *see also Solem*, 465 U.S. at 467 ("[F]ederal, State and tribal authorities share jurisdiction" over unallotted lands even "if the relevant surplus land Act did not diminish an existing Indian reservation.").¹² Thus, while affirming that "Indian tribes retain inherent sovereign powers to exercise some forms of civil jurisdiction over non-Indians on their reservations, even on non-Indian fee lands," the Court has limited the jurisdiction that Tribes can assert even within their own reservations.¹³ *Strate v. A-1 Contractors*, 117 S. Ct. 1404, 1409 (1997) (quoting *Montana v. United States*, 450 U.S. at 565). Accordingly, in *South Dakota v. Bourland*, 508 U.S. 679 (1993), this Court held that a Tribe could not regulate hunting and fishing by non-Indians within its reservation because the Tribe had lost "regulatory jurisdiction over the use of land by others" when it "convey[ed] ownership of its tribal lands to non-Indians." *Id.* at 689.

Tribes of course retain rights to protect their "political integrity, economic security, [and] health and welfare."

¹² Indeed, Congress gave Minnesota "jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in . . . [a]ll Indian country within the State, except the Red Lake Reservation." Act of Aug. 15, 1953 (Public Law 280), ch. 505, § 4, 67 Stat. 589 (1953) (codified at 28 U.S.C. § 1360(a)). The Act gave similar jurisdiction to five other States and created a mechanism for additional States to acquire such jurisdiction. *See id.* Congress, however, substantially modified the Act through Title IV of the Civil Rights Act of 1968, Pub. L. No. 90-284, § 301, 82 Stat. 73, 78 (1968) (codified at 25 U.S.C. §§ 1321-26). *See Bryan v. Itasca County*, 426 U.S. 373, 386-87 (1976).

¹³ The fact that the reservation lands in question are part of "Indian Country," 18 U.S.C. § 1151, does not affect the analysis. Indian Country includes "all land within the limits of any Indian reservation" including the lands of non-Indians. Yet in *County of Yakima*, this Court concluded that land plainly part of Indian Country was subject to *ad valorem* taxation. *See* 502 U.S. at 256.

Strate, 117 S. Ct. at 1409. But as this Court observed in *County of Yakima*, it would be a "great exaggeration" to suggest that "the mere power to assess and collect a tax on certain real estate" imperils a Tribe's political integrity, economic security, or health and welfare. *County of Yakima*, 502 U.S. at 265. Indeed, the *in rem* nature of *ad valorem* taxation guarantees that it burdens only property in which the federal interest has been eliminated, as opposed to affecting Indians *in personam*. See *id.* at 266 (noting that because *ad valorem* taxation "flows exclusively from the ownership of realty," it can create only "a burden on the property alone").

Moreover, this Court has expressly recognized the interests of state and local governments in implementing neutral systems of regulation and taxation within the borders of Indian reservations. For example, in *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134 (1980), the Court upheld the imposition of state sales taxes on purchases made by non-Indians on reservation lands. *Id.* at 161.¹⁴ Similarly, this Court has rejected any notion of an impermeable, land-based tribal sovereignty by upholding state collection of excise taxes within reservations, see *California State Board of Equalization v. Chemeheuvi Indian Tribe*, 474 U.S. 9, 12 (1985); exclusive state power to zone in the largely non-Indian areas of reservations, see *Brendale*, 492 U.S. at 427 (White, J.); 492 U.S. at 434-45 (Stevens, J.), and, most recently, *ad valorem* taxation of allotted Indian-owned lands within a reservation, see *County of Yakima*, 502 U.S. at 265-66.¹⁵ Absent from these cases is any sug-

¹⁴ See also *Department of Taxation & Finance v. Mülhelm Attea & Bros.*, 512 U.S. 61, 73 (1994) (reaffirming tribal obligation to collect state sales taxes levied on sales to non-Indians within reservation boundaries); *Oklahoma Tax Comm'n v. Citizen Band Potawatomi Indian Tribe*, 498 U.S. 505, 512 (1991) (same).

¹⁵ See also *Duro v. Reina*, 495 U.S. 676, 693 (1990) (holding that Tribes do not have inherent criminal jurisdiction over Indians who

gestion that Tribes, acting without congressional authority, have an inherent power to trump *ad valorem* taxation of land within Indian Country solely by reacquiring it in fee.

C. Tribes Should Not Be Permitted to Circumvent Congress' Statutory Mechanism for Restoring Taxable Lands to Federal Trust Status

1. The court of appeals' holding has the practical effect of nullifying the carefully crafted procedure that Congress has provided for re-establishing federal trust status over lands acquired by an Indian tribe. In Section 5 of the Reorganization Act, codified at 25 U.S.C. § 465, Congress granted the Secretary of the Interior authority to accept (or to purchase) land to be held in trust by the United States for the benefit of Indians. Under this provision, other reacquired land including the site of the Leech Lake Band's casino, have been restored to the status of tribal trust lands. See Pet. App. 24 n.14. This Court should not allow Tribes to evade this explicit mechanism and its protections for state and local governments.

Congress' scheme represents a careful legislative balance of the interests involved in placing lands into federal trust, which exempts them "from State and local taxation," 25 U.S.C. § 465. Under the regulations that implement Section 5, 25 C.F.R. Part 151, state and local governments are expressly entitled to comment on a federal proposal to place lands in trust. See 25 C.F.R. § 151.10.

are not members of their tribe), superseded by Act of Oct. 28, 1991, Pub. L. No. 102-137, 1991 U.S.C.C.A.N. (105 Stat.) 646; *Montana v. United States*, 450 U.S. at 566-67 (forbidding tribal regulation of hunting and fishing by non-Indians on fee lands located within a reservation); *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 212 (1978) (holding that Tribes lack criminal jurisdiction over non-Indians for offenses committed within reservations); cf. 25 U.S.C. § 357 (allowing States the power to condemn any allotted land, even if federal restrictions remain, "for any public purpose"); 25 U.S.C. § 348 (applying state laws of partition and descent to allotments).

Most significantly, these regulations recognize that all lands in unrestricted fee status are normally subject to *ad valorem* taxation and therefore mandate that the Secretary consider "the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls." 25 C.F.R. § 151.10(e). These procedures also require that the Secretary give 30 days' notice before accepting title to allow for judicial review under the Administrative Procedure Act. See *United States Dep't of the Interior v. South Dakota*, 117 S. Ct. 286, 287 (1996) (Scalia, J., dissenting from GVR) ("judicial review of [a Reorganization Act] land trust acquisition may be obtained by filing suit within the 30-day waiting period").

2. The court of appeals' holding allows the Band to circumvent Congress' prescribed mechanism for establishing federal trust status over lands in unrestricted fee status. In effect, the court grants Tribes a necessarily federal power unilaterally to remove land from state and local tax rolls without providing state and local governments any procedural or substantive protections.

Granting Tribes the ability to obtain tax exemptions without federal procedural safeguards is especially harmful to local governments because it destroys the Tribes' incentive under § 465 to negotiate with affected communities in order to obtain their support for applications for federal trust status. In practice, such negotiations can be central to the economic health of smaller communities located near Indian reservations.¹⁶ For example, based on negotiations with local officials, the Oneida Indians agreed to give \$320,000 in lieu of taxes to a local school district and municipalities near their hotel and casino complex (with plans for a golf course and convention center). See

¹⁶ Such negotiations are also important to western cities as large as Tulsa, which has a sizable Osage Reservation in its suburbs. Indeed, Indians are currently seeking trust status for 7,724 acres in about half of Oklahoma's counties. See Jim Myers, [U.S. Rep.] *Istook Says Land Move Threatens Schools*, Tulsa World, May 30, 1997, at A11.

James Dao, *Gambling in the Middle of Nowhere*, N.Y. Times, Nov. 10, 1997, at B1.¹⁷ Similarly, in order to win the support of a neighboring town council for its application for federal trust status, the Narragansett Indians agreed to use a 31-acre fee site only for housing and to pay \$25,000 in back taxes. See Sara Olkon, *Town Council Backs Tribe's Application for Trust Status*, Providence Journal-Bulletin, Aug. 25, 1997, at 1C.

This Court should not give to the Leech Lake Band and other Tribes a trump card in negotiations with state and local governments that Congress and the Secretary have denied them. *Amici* respectfully submit that the need to preserve the integrity of the existing scheme to restore taxable land to trust status under Section 5 of the Reorganization Act is further reason to reverse the judgment of the court of appeals.

II. EXEMPTION FROM *AD VALOREM* TAXES FOR LANDS THAT TRIBES HOLD IN FEE WOULD IMPAIR STATE AND LOCAL GOVERNMENT ADMINISTRATIVE AND ECONOMIC INTERESTS

1. This Court has "traditionally followed 'a per se rule' 'in the special area of State taxation of Indian tribes and tribal members'" that recognizes the administrative needs of state and local governments. *County of Yakima*, 502 U.S. at 267-68 (quoting *California v. Cabazon Band of Indians*, 480 U.S. 202, 215 n.17 (1987)). This con-

¹⁷ These negotiations were under the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-2721, which is not directly implicated in this case but gives rise to similar negotiations over tax and regulatory issues. For example, the Mohegan Indians took a 240-acre site off the tax rolls for their casino but gave the town of Montville, Connecticut, \$500,000 per year for capital improvements and \$3 million for an extension of the town water line in exchange. See Lyn Bixby, *Mohegan Sunrise*, Hartford Courant, Oct. 11, 1997, at A1. Similarly, the Eastern Shawnee Tribe of Oklahoma is negotiating to put a casino on trust lands in Southwest Missouri near family-oriented tourist attractions. See Sen. Christopher Bond, *Gambling in Missouri*, Congressional Press Release, May 20, 1997.

cern for tax administration supports an "alienability equals taxability" rule. In light of the considerable administrative burdens that would result from the approach of the court of appeals, this Court should adopt a categorical rule that States may assess non-discriminatory *ad valorem* taxes on former Indian lands within reservation boundaries that have been sold in fee under Congress' direction, regardless of the identity of the lands' current owners.¹⁸

State and local governments have an obvious and compelling interest in the certainty, lower administrative costs, and reduced litigation that result from *per se* rules in Indian tax matters. Practical considerations require that the tax status of a parcel be readily and clearly determined lest litigation "engulf the States' annual assessment and taxation process, with the validity of each levy dependent upon a multiplicity of factors that vary from year to year, and from parcel to parcel." *County of Yakima*, 502 U.S. at 267. In addition, in this era of growing local responsibilities, state and local governments require more stability in their tax bases to allow for fiscal planning. *Amici* urge this Court to obviate the need for repeated, complex, and protracted litigation over the tax status of particular parcels of land by articulating a clear, bright-line rule for the *ad valorem* taxation of parcels owned in fee by Indians or Indian tribes within Indian Country.

2. Under a rule of "alienability equals taxability," state and local governments would be able to assess non-discriminatory *ad valorem* taxes on all land not held in federal trust or restricted status. Consistent with universal practices, the burden of demonstrating exemption would be on the property owner who has superior knowledge of the parcel's history. See, e.g., *White Earth Land Recovery Project v. County of Becker*, 544 N.W.2d 778, 780

¹⁸ All non-discriminatory tax exemptions, such as those for religious, educational, and other not-for-profit organizations, are of course available to Indian tribes.

(Minn. 1996) ("All property is presumed taxable, and the burden is on the party seeking tax-free status to prove entitlement to the claimed exemption."). While some amount of parcel-by-parcel assessment of property is of course inevitable given the nature of *ad valorem* taxation and the checkerboard pattern of reservation lands, the rule that alienability equals taxability has the advantage of requiring a single, lasting determination of the tax status of each parcel. Repeated reference to the nuances of specific treaty and statutory provisions would thus not be necessary every time fee land within a reservation changed hands.¹⁹

3. The court of appeals' decision results in an unduly complicated system of *ad valorem* taxation that requires state and local governments to undertake a parcel-by-parcel examination of the subtleties of specific treaty provisions and then continually to reassess the tax status of individual parcels based on the identity of the current owners. *Amici* have a strong interest in this Court's formulation of clear, easily administered rules which decrease collection costs, reduce tax disputes, and facilitate proper assessment of local tax bases. This Court should not sanction a rule that forces the repeated examination of the nuances of century-old treaty provisions and statutes that is currently required to assess *ad valorem* taxation in the Sixth and Eighth Circuits. *Amici* urge this Court to give due consideration to their interest in avoiding the high costs of tax assessment and the complex and protracted litigation endemic to a rule that turns tax administrators into legal historians.

¹⁹ As the Department of the Interior assumed in its regulations under § 5 of the Reorganization Act, 25 C.F.R. § 151.10(e) (considering land held in "unrestricted fee status" to be on "the tax rolls"), several States have already developed a practice of subjecting lands within the boundaries of Indian reservations to *ad valorem* taxes unless such lands are held in federal trust status or have other federal restrictions on alienation. See, e.g., 1996 Idaho Op. Atty. Gen. 24; 1993 Minn. Op. Atty. Gen. 414A-5.

4. In light of the fact that nearly half of the residents on reservations are not Indians, *see* Bureau of Census, *1990 Census of Population*, at 1, tbl. 1, *amici* fear the proliferation of aggressive land development practices if this Court affirms the court of appeals' decision. Giving Tribes unilateral power to exempt prime real estate from *ad valorem* taxes erodes the tax base even though the need for governmental services remains constant.²⁰ Illustrations of the problem abound. At the edge of Shakopee, Minnesota, Shakopee Indians with a tribal income in excess of \$600,000 per capita plan to build a shopping center that would result in lost local tax revenues estimated to exceed \$97.5 million over 12 years. *See* Mike Kaszuba, *Tensions Rise Over Tribe's Land in Shakopee*, Minneapolis Star Tribune, Nov. 9, 1997, at 1A. Similarly, three small Connecticut towns have had to join together to oppose the Mashantucket Pequots' use of casino profits to buy 5,000 acres of land, an action that could decimate the towns' tax rolls. *See* Jonathan Rabinovitz, *Towns Near Pequot Casino Object to Annexation Plan*, New York Times, Nov. 25, 1997, at B5; Jeff Nesbit, *Indian Tribes Can't Lose Bets on Casinos*, Washington Times, June 28, 1996, at B7. Finally, in a striking example of how the system can be manipulated, non-Indians have entered into 99 year leases with the Cochiti Pueblo Indians for Cochiti Lake properties and are fighting New Mexico's efforts to assess *ad valorem* taxes on their leases. *See* Andrew Padilla, *Cochiti Residents Fight Tax*, Albuquerque Journal, Nov. 6, 1997, at 4. This Court's approval of the

²⁰ Such tax status would also provide tribal businesses with a structural advantage over nearby non-Indian competitors and thereby decrease the value of taxable business. For example, a Tribe could purchase fee land near an interstate exit, declare it sovereign territory, and offer gasoline or other products at a significant discount to its non-Indian competitors. *See, e.g.*, Larry Richardson, *Oneidas Purchase New Plot: Site at Thruway Exit 34 May Be Used for a Casino and Truck Stop*, Syracuse Herald Journal, Mar. 1, 1997.

Band's position would undoubtedly fuel a burgeoning of aggressive Indian purchases of fee lands (and perhaps even purchases with immediate long-term lease-backs) in valuable sections of municipalities that were once part of reservations, such as resort locations near Taos, New Mexico, with the resulting steady erosion of local tax bases and the essential services they support.

* * * *

As even one of the courts of appeals that ruled in favor of the Indians' position noted:

It is not very satisfying as a policy matter to treat lands that were initially conveyed over 100 years ago differently for tax purposes depending on whether they were conveyed under the General Allotment Act or some other treaty.

United States ex rel. Saginaw Chippewa Indian Tribe v. Michigan, 106 F.3d 130, 134 (6th Cir.), *petition for cert. filed*, 66 U.S.L.W. 3085 (U.S. June 30, 1997) (No. 97-14). As that court correctly noted, the wisdom of policy matters is, of course, for Congress to determine. *See id.* But when Congress acts for more than 50 years through a multitude of allotments and surplus land acts with the clear purpose of eliminating the federal interest in the land, this Court should carry that intention into effect and recognize, as it did in *County of Yakima*, that the Congress that authorized the public sale of parcels to non-Indian settlers and businesses unmistakably intended to make those lands subject to state and local *ad valorem* taxation.

CONCLUSION

The judgment of the court of appeals as it relates to pine lands and homestead lands should be reversed.

Respectfully submitted,

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APPENDIX

12
No. 97-174

Supreme Court, U.S.

FILED

DEC 15 1997

CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, 1997

CASS COUNTY, *et al.*

v.

Petitioners,

LEECH LAKE BAND OF CHIPPEWA INDIANS,

Respondent.

On Writ of Certiorari to the
United States Court of Appeals
for the Eighth Circuit

APPENDIX TO
BRIEF FOR LEWIS COUNTY, IDAHO;
AITKIN COUNTY, BENTON COUNTY,
CROW WING COUNTY, ISANTI COUNTY,
KANABEC COUNTY, MAHNOMEN COUNTY,
MILLE LACS COUNTY, MORRISON COUNTY,
PINE COUNTY, AND SHERBURNE COUNTY,
MINNESOTA; GLACIER COUNTY, LAKE COUNTY,
AND ROOSEVELT COUNTY, MONTANA;
LYMAN COUNTY, SOUTH DAKOTA;
DUCHESNE COUNTY AND UINTAH COUNTY, UTAH;
AMICI CURIAE, IN SUPPORT OF PETITIONERS,
CASS COUNTY, MINNESOTA, *ET AL.*

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APPENDIX

HOUSE OF REPRESENTATIVES

51ST CONGRESS, 1st Session.

Ex. Doc. No. 247

CHIPPEWA INDIANS IN MINNESOTA

MESSAGE

From The

PRESIDENT OF THE UNITED STATES,

Transmitting

*A communication from the Secretary of the Interior
relative to the Chippewa Indians in the State of Minnesota.*

March 6, 1890.—Referred to the Committee on
Indian Affairs.

To the Senate and House of Representatives:

In pursuance of the authority and direction contained in the act of Congress approved January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," three commissioners were appointed by the President on February 26, 1889, as therein authorized and directed, namely: Henry M. Rice, of Minnesota, Martin Marty, of Dakota, and Joseph B. Whiting, of Wisconsin, to negotiate with said Indians.

The commissioners have submitted their final report, with accompanying papers, showing the results of the

negotiations conducted by them, and the same has been carefully reviewed by the Secretary of the Interior in his report to me thereon.

Being satisfied from an examination of the papers submitted that the cession and relinquishment by said Chippewa Indians of their title and interest in the lands specified and described in the agreement with the different bands or tribes of Chippewa Indians in the State of Minnesota was obtained in the manner prescribed in the first section of said act, and that more than the requisite number have signed said agreement, I have, as provided by said act, approved the said instruments in writing constituting the agreement entered into by the commissioners with said Indians.

The commissioners did not escape the embarrassment which unfortunately too often attends our negotiations with the Indians, viz: An indisposition to treat with the Government for further concessions while its obligations incurred under former agreements are unkept. I am sure it will be the disposition of Congress to consider promptly, and in a just and friendly spirit, the claims presented by these Indians through our commissioners, which have been formulated in the draught of a bill prepared by the Secretary of the Interior and submitted herewith.

The act of January 14, 1889 (25 U. S. Stat., 612) evidently contemplated the voluntary removal of the body of all these bands of Indians to the White Earth and Red Lake Reservations; but a proviso in section 3 of the act authorized any Indian to take his allotment upon the reservation where he now resides. The commissioners report that quite a general desire was expressed by the Indians to avail themselves of this option. The result of this is that the ceded land can not be ascertained and brought to sale under the act until all of the allotments are made.

I recommend that the necessary appropriations to complete the surveys and allotments be made at once avail-

able, so that the work may be begun and completed at the earliest possible day.

A copy of the report made by the commissioners, with copies of all of the papers submitted therewith except the census rolls, is herewith presented for the information of the Congress.

BENJ. HARRISON.

EXECUTIVE MANSION,
March 4, 1890.

DEPARTMENT OF THE INTERIOR,
Washington, January 30, 1890.

The PRESIDENT:

There has been filed in this Department the report of the Chippewa Commission, one copy whereof is herewith transmitted for your consideration and action.

This Commission was formed under an act entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," being chapter 24, United States Statutes at Large, volume 25, page 642, approved January 14, 1889.

The first section of the act authorizes the creation of the Commission, designates its purposes, provides for certain conditions precedent as to a census to be taken, and declares in what manner the cession and relinquishment of the lands therein sought to be obtained by the Government shall be effected. The section is as follows:

That the President of the United States is hereby authorized and directed, within sixty days after the passage of this act, to designate and appoint three commissioners, one of whom shall be a citizen of Minnesota, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all

their title and interest in and to all the Reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of those two reservations as in the judgment of said commission is not required to make and fill the allotments required by this and existing acts, and shall not have been reserved by the commissioners for said purposes, for the purposes and upon the terms hereinafter stated; and such cession and relinquishment shall be deemed sufficient as to each of said several reservations, except as to the Red Lake Reservation, if made and assented to in writing by two-thirds of the male adults over eighteen years of age of the band or tribe of Indians occupying and belonging to such reservations; and as to the Red Lake Reservation the cession and relinquishment shall be deemed sufficient if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota; and provided that all agreements therefor shall be approved by the President of the United States before taking effect: *Provided further*, That in any case where an allotment in severalty has heretofore been made to any Indian of land upon any of said reservations, he shall not be deprived thereof or disturbed therein except by his own individual consent separately and previously given, in such form and manner as may be prescribed by the Secretary of the Interior. And for the purpose of ascertaining whether the proper number of Indians yield and give their assent as aforesaid, and for the purpose of making the allotments and payments hereinafter mentioned, the said commissioners shall, while engaged in securing such cession and relinquishment as aforesaid and before completing the same, make an accurate census of each tribe or band, classifying them into male and female adults and male and female minors; and the minors into those who are orphans and those who are not orphans, giving the exact numbers of each class, and making such census in duplicate lists, one of which shall be filed with the Secretary of the Interior and the other with the official head

of the band or tribe; and the acceptance and approval of such cession and relinquishment by the President of the United States shall be deemed full and ample proof of the assent of the Indians, and shall operate as a complete extinguishment of the Indian title without any other or further act or ceremony whatsoever for the purposes and upon the terms in this act provided.

The Commission was appointed by the President on the 26th day of February, 1890, and the several members thereof became duly qualified by giving the bond required by section 2 and taking the oath thereunder required, as appears by the files of this Department. The census required to be taken by section 1 was completed and one of the duplicate lists thereof filed with the Secretary of the Interior on the 3d day of January, 1890, and the other with the official head of the band or tribe.

It appears by the report of the Commission that it sought and obtained the assistance of Bishop Whipple and Archbishop Ireland in its labors, and that all that was done was conducted in a spirit of fairness towards the Chippewas. There were distributed among them 500 copies of the act of January 14, 1889, and several hundred copies of the general allotment act of February 8, 1887.

Councils were held at Red Lake, White Earth, Gull Lake, Leech Lake, Cass Lake, Lake Winnibagoshish, White Oak Point, Mille Lac, Grand Portage, Bois Forte and Vermillion Lake, and Fond du Lac.

At Red Lake the assent of all the Indians to the agreement was obtained except a few called "pagans," residing on the northern shore of the lake. The Indians at Red Lake complained of unfulfilled promises, plead for mills and cattle, and that their boundaries might be surveyed in accordance with treaties. They also prayed for an agent, as they were 80 miles from the White Earth Agency. The Red Lake Reservation, two-thirds of which

at least is ceded to the United States, contains 3,200,000 acres, and the number of Indians occupying it is 1,168. The boundaries of the diminished reservation, from which allotments to the Red Lake Chippewas are to be made, are given in the report. The commissioners report that—

This reservation is larger than will eventually be required, but as there are swamps and other untillable lands therein, it can not be reduced until after survey and allotments shall be made.

Whether the surplus lands that may remain after allotments shall have been completed as required by the law can be disposed of without further legislation is a question which will require consideration, but such consideration is not necessary at this time.

The Indians on the Red Lake Reservation were suffering for want of food, owing to the loss of crops the last season.

The Indians of the White Earth Reservation were also suffering for food. They insisted upon the provisions of article 9 of the treaty of September 30, 1854, and that damages should be paid because of the construction of reservoirs on the reservation near the headwaters of the Mississippi, provision for which had been made by the Northwest Commission three years ago, and which negotiations have not been acted on by Congress. No explanation could be given why the provisions of the treaty of September 30, 1854, had not been fulfilled, but the Indians were promised that the best efforts would be given to secure justice in this case, and upon these assurances the acceptance and signing of the propositions made were nearly unanimous. This matter is incorporated in the draught of a bill herewith presented for submission to Congress.

The White Earth Reservation contains 796,762 acres, and the number of Indians occupying the same is 2,044. They complain of want of milling facilities. They have

about 5,000 acres seeded in wheat, barley, and vegetables, but owing to want of rain not more than half a crop will be grown. At least 2,500 acres heretofore cultivated lies fallow for want of seed and teams.

There were but 277 Chippewas at Gull Lake, all of whom signed the agreement and agreed to make their permanent home on the White Earth Reservation as soon as they should be furnished with means to cultivate the soil and subsist until they could make a living.

At Leech Lake Reservation, amid pompous demonstrations, the Commission was received, and the first demand made of them was that there should be settlement of outstanding claims. Nor was the business allowed to proceed until the Commission had given a solemn promise with raised hands that they would to their utmost ability urge the immediate settlement of these unadjusted demands. These Pillager Indians have a claim for lands ceded to the United States under the treaty of 1847, which it is urged should be carefully investigated, and the Pillagers allowed what may be found in equity due them, and also for damages arising from the construction of reservoirs at the headwaters of the Mississippi. For these damages it is recommended that there be paid \$150,000, with 5 percent per annum to date, and \$1.25 per acre for the overflowed lands. The Indians have absolutely ceded to the United States 46,920 acres, which can not be sold, as provided in the act of January 14, 1889, for their benefit, and it is and must be reserved for the overflow caused by the reservoir dams. An item covering the claim for damages by reason of the construction of the dams is also incorporated in the inclosed draught of bill.

The alleged claim of the Pillagers for further compensation for land ceded under the treaty of 1847 is a matter for consideration by Congress, and I would recommend that it be brought to the attention of that body. The state-

ment upon which this claim is based by the Indians is set forth in the report of the Commission.

At Cass Lake a like demand was made by the Indians for the settlement of unsatisfied demands, but all gave their assent and signatures to the proposition.

The Indians at Lake Winnibagoshish depend much upon their wild rice, which they were gathering at the advent of the Commission. The injury done them by the building of the reservoirs is very great. They are destitute, as are those at Cass Lake, of aid from the Government, having no missionary, school, farmer, blacksmith, or physician. The Commissioners observe that the Winnibagoshish Reservation is marked upon the map by township lines, which is erroneous, as the treaty fixes its line by natural boundaries beyond those shown by township lines. This has given much dissatisfaction, as the whites have settled between the two lines and consequently upon the reservation, as the Indians claim. This marking is erroneous, and should be adjusted. All the adults of this band gave their consent to the agreement.

The condition of the Indians at White Oak Point is described as beyond hope of improvement, they being dissipated and dissolute, but they have still intelligence enough to ask that whisky may be kept from the country and that missionaries and school teachers be sent them. They all signed the agreement, and it will be the purpose of this Department to supply and enforce so far as may be in its power the regulations so reasonably demanded. Scattered members of the White Oak Point bands were found at Kimberly, who were healthy in mind and body, unusually bright and careful of themselves, and all of whom were anxious to acquire lands in severalty and the young men eager to find work. They number one hundred, and all except one signed the agreement.

The Indians at Mille Lac were found to be intelligent, cleanly, and well behaved, and of good reputation among

the neighboring whites. White men unfortunately have been permitted to rob them of their pine, and for years to settle upon their agricultural lands, to great injury and fear of the Indians. Squatters are now settling upon this reservation, as the commissioners report. The question of right should be settled at the earliest possible moment, for the greater the delay the more difficult will be the adjustment. All signed the agreement at this place.

The rights of the Indian upon this reservation have been a vexed question, full of difficulties and embarrassments, but it is hoped that this agreement will furnish a basis for its early and final solution.

At Grand Portage the Indians expressed themselves as fully understanding and satisfied with the terms of the act, and signed with cheerfulness and unanimity. They complained that the white fishermen spread so many large nets near their reservation that the Indians were unable to procure a supply of fish for food.

At Bois Forte and Vermilion Lake the Indians seemed timid and distrustful, but they "touched the pen" finally with great solemnity and much formality. They have the best hunting grounds of the Chippewas. They seem willing to learn to till the soil, but ask for assistance in the way of better facilities. Much of the land on the Lake Superior reservations is unfit for cultivation, and the Bois Forte Indians complain that a large amount of their timber is cut without compensation, and is run down Little Fork River to the British Possessions.

Many of the Indians at Fond du Lac are in danger of suffering during the winter and spring, having been denied the right of cutting timber on their reservation. Like all of the Mississippi bands, they feel greatly grieved at the long-continued withholding of the money due them from the Government. On the positive assertion of the commissioners that justice should be speedily done, not only in this respect but in the matter of a palpable error in the

boundary lines of their reservation, they were induced to listen, and finally signed by touching the pen.

This claim for additional land to which the Indians insist they are entitled under the plain and unmistakable meaning of the treaty should have careful consideration and be fairly and speedily adjusted.

The Commission reports:

As the various bands decided to take their allotments on their respective reservations, the Commission told them that the \$90,000 to be advanced and already appropriated would be paid pro rata as soon after the approval of these negotiations by the President as should be practicable, but not later than the coming spring.

The Commission further reports that—

The clause of the act of January 14, 1889, providing for the payment of the interest that may accrue on the permanent fund, was to the Commission obscure, and they promised the Indians that cash payment should be made per capita in equal shares.

It is provided in section 7 of the act of January 14, 1889 (25 Stats., 642):

That one-half of said interest shall, during the said period of fifty years, except in the cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; the fourth of said interest shall, during the same period and with the like exception, be annually paid in cash in equal shares per capita to all other classes of said Indians; and the remaining one-fourth of said interest shall, during the said period of fifty years, under the direction of the Secretary of the Interior, be devoted exclusively to the establishment and maintenance of a system of free schools among said Indians, in their midst and for their

benefit; and at the expiration of the said fifty years, the said permanent fund shall be divided and paid to all of said Chippewa Indians and their issue then living, in cash, in equal shares.

This construction by the Commission is deemed reasonable. While there may be some discussion possibly in regard to its validity, it is deemed that it is in harmony with the spirit of the act, and having been made the basis of the Indians' assent it should be adhered to.

The Indians desire that the Government will set aside a sufficient quantity of land on each reserve for Government buildings, such as may be necessary for physician, blacksmith, farmer, carpenters, and for missionaries, traders, etc. The commissioners recommend this, and the reservation, it is submitted, should be made, and the order as to the location and erection of such buildings should be enforced.

The reservation of the necessary and suitable tracts of land for these purposes can be made the subject of an executive order when proper selections shall have been made, which should be attended to before the lands are offered for disposal under the act.

The commissioners further recommend that on each reservation a tract of pine land should be reserved and held by the General Government as might be necessary for their common use, to be so held during the pleasure of the Secretary of the Interior.

I doubt whether this request for the reserving and holding by the General Government of a tract of pine land upon each reservation for the common use of the Indians remaining thereon can be complied with without legislative authority therefor, in view of the terms and conditions of the act to which the Indians have given their consent.

They ask for saw-mills, cattle, agricultural and mechanical implements, which they must have, or they can make no substantial progress.

The commission reports that although the Indians have decided to take allotments on their reservations, it is believed that many may be induced to remove to White Earth, and for this reason it is not prudent to urge individual allotments elsewhere than on the White Earth and Red Lake Reservations at present.

The removal of those who will go to White Earth will take place as soon as provisions can be made for their subsistence. It will be of the greatest benefit to the Indians and to the State to have the removal made.

The Commission ask that there may be granted 10 acres of maple timber for making sugar to each family occupying the same. This is deemed ample and is as much as should be granted. The matter should receive attention when the individual allotments are made to the Indians.

The commissioners state that it is important that the four townships of pine land on the White Earth Reservation should be early estimated and sold, as the timber is liable to be stolen or burned; while on the other hand the swamp lands of valuable cedar and tamarac should be withheld from sale under the pre-emption laws, and sold under the direction of the Secretary of the Interior, in such manner and upon such terms as to him shall seem best for their interests.

I fully concur in the suggestion of the commissioners, that the ceded lands of the White Earth Reservation already surveyed should be disposed of under the terms of the act, at as early a date as possible, but I do not see how the swamp lands referred to and reported to be valuable chiefly for cedar and tamarac can be withheld from sale as requested without further legislation in view of the last clause of section 4 of the act, which reads as follows:

All other lands acquired from the said Indians on said reservations other than pine lands are for the purposes of this act termed "agricultural lands."

And section 6 provides specifically the manner in which unallotted and unreserved agricultural lands shall be disposed of. I think, however, that this request of the Indians should receive favorable consideration by Congress, and that the necessary legislation should be had authorizing the reservation and disposal of the cedar and tamaric swamp lands as desired by the Indians.

It is reported and believed that upon Grand Portage, Bois Forte, and Vermillion Lake Reservations there are valuable mines, and the Indians request that if such are discovered they shall be disposed of by the Secretary of the Interior as best to subserve the interests of the commissioners regarding the request of the Indians for the disposal of mineral lands. I can not see how such a request can be complied with under the law.

The commissioners state that the pine ceded is estimated by various parties from \$25,000,000 to \$50,000,000.

It is reported by the commission that a further appropriation for surveys and examination of the lands will be necessary, and that a small appropriation should be used for the purpose of defraying the expenses of the Indians who may desire to visit the White Earth Reservation, with the expectation of removing there before allotments should be taken or confirmed elsewhere.

Section 8 of the act makes an appropriation of \$150,000 "to pay for procuring the cession and relinquishment, making the census, surveys, appraisals, removal, and allotments, and the first annual payment of interest herein contemplated and provided for." Ninety thousand of this sum is required to pay the first annual payment of interest, leaving but \$60,000 for the other purposes specified. The commission has expended about \$30,000 in procuring the cession and relinquishment, and making the census, leaving about \$30,000 for the surveys, appraisals, and for the removal and allotments provided for in the act. This balance is manifestly insufficient to enable the Department

to accomplish these further provisions of the act, and I therefore concur in the recommendation that a further appropriation be made, and an item for that purpose is included in the draught of bill herewith submitted, which also provides for defraying the expenses of Indians visiting the White Earth Reservation.

The commission further remark that the Red Lake Indians should be encouraged to commence farming and building houses the coming spring, and furnished with cattle and implements, etc.

All these requests of the Indians and recommendations of the commission for furnishing mills, farming implements, cattle, buildings etc., raise the question of an appropriation therefor, which requires to be carefully considered. Section 7 of the act provides the manner for the disposition of the interest on the proceeds arising from the disposal of the lands, as previously recited in this report. It is in said section further provided:

That Congress may in its discretion, from time to time, during the said period of fifty years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding five per centum thereof. The United States shall, for the benefits of said Indians advance to them as such interest as aforesaid the sum of \$90,000 annually, counting from the time when the removals and allotments provided for in this act shall have been made, until such time as said permanent fund, exclusive of the deductions hereinbefore provided for, shall equal or exceed the sum of \$1,000,000, less any actual interest that may in the meantime accrue from an accumulation of said permanent fund; the payments of such interest to be made yearly in advance, and in the discretion of the Secretary of the Interior, may, as to three-fourths thereof, during the first five years, be expended in procuring livestock, teams, farming implements, and seed, for such of the Indians,

to the extent of their share, as are fit and desire to engage in farming; but as to the rest, in cash.

As the \$90,000 already appropriated as first payment of interest was promised by the commission should be paid pro rata in cash, there is no fund out of which the mills, etc., can be purchased, unless Congress shall make an appropriation to enable the Department to provide these necessary and essential things so urged by the commission, and make such appropriation reimbursable from the principal sum arising from the disposal of said lands. An item for that purpose is embraced in the draught of bill herewith.

It is suggested that there are many persons of Chippewa blood dwelling in Michigan, Wisconsin, and elsewhere, but that the chiefs and headmen should be consulted as to the justice of their claims when they assert the right to the benefits under recent negotiations.

It will be perceived that some portions of the recommendations of the commissioners may be carried into effect through orders of this Department, and the same will be done to the extent possible; but, as to those matters dependent upon further legislation, the President will have to request action by Congress. The chief of these will be to make such appropriations as will pay the demands of the Indians under previous treaties, and for the damages done by the reservoirs established upon the reservations. This matter has long been pending, and its adjustment seems to be demanded by ordinary good faith and the plainest principles of justice.

The \$150,000 hereinbefore mentioned, recommended for the damages done by the overflow of the reservation dams, with 5 per cent interest, should no longer be refused.

There should be a due appropriation made, also, for the establishment of schools, and the employment of farmers, blacksmiths, and physicians, and particular provision

made to preserve these Indians from want during the remainder of the winter and coming spring.

The first section of the act provides for an accurate census of each tribe or band, to be taken by the said commissioners while engaged in securing such cession and relinquishment, classifying them into male and female adults, and male and female minors; and the minors into those who are orphans and those who are not orphans; giving the exact number of each class.

* * * *

The commissioners also submit reports showing the number of male adults of each of the separate bands and the number of such male adults assenting to the act of which the following is a summary:

	Male adults	
	Total	Assenting
Red Lake and Pembina bands:		
Red Lake	303	247
Pembina	83	77
Total	386	324
Mississippi bands:		
White Earth	284	270
Gull Lake and scattering	61	57
White Oak Point	176	172
Mille Lac	213	189
Total	734	688
Pillager and Lake Winibigoshish bands:		
Leech Lake	324	217
Otter Tail	164	144
Cass Lake	67	65
Lake Winibigoshish	45	40
Total	600	466
Grand Portage, Bois Forte, and Fond du Lac bands:		
Grand Portage	73	72
Bois Forte	228	211
Fond du Lac	157	123
Total	458	406
RECAPITULATION		
Red Lake and Pembina bands	386	324
Mississippi bands	734	688
Pillager and Lake Winibigoshish band	600	466
Grand Portage, etc., bands	458	406
Total	2,178	1,884

This summary shows that the total number of male adults is 2,178 and that 1,884 of that number signed their acceptance and consent to the act, being over 86 per cent, of such male adults, and more than the requisite "two-thirds of the male adults over eighteen years of age of the band or tribe of Indians occupying and belonging to" each of the several reservations, and more than "two-thirds of the male adults of all the Chippewa Indians in Minnesota," as is required in the case of the Red Lake Reservation. (Section 1 of the act.)

The commissioners have not submitted their recommendations in separate form, and what is herein stated has been gathered from the general purport of their report, all of which will be more fully considered by the appropriate committees, with the view of doing complete justice to this tribe, which has reposed its confidence so firmly and fully in the Government and relied upon its justice.

It is provided in section 1 of the act authorizing negotiations "that all agreements therefor shall be approved by the President of the United States before taking effect."

The agreement or acceptance and consent of the Indians to the act, herewith, in ten parts, is therefore respectfully submitted for your action.

Before the ceded lands within any of the reservations can be disposed of as contemplated in the act, all of said ceded lands must be surveyed as the public lands are surveyed, after which they are to be carefully examined in 40-acre lots, by competent and experienced examiners to be appointed for that purpose, and classified into "pine lands" and "agricultural lands," the pine lands are then to be valued and listed, etc. (section 4), and finally proclaimed as in market and offered for sale in the manner prescribed in section 5.

The agricultural lands not allotted nor reserved for the use of the Indians, after having been surveyed, are to be

advertised for thirty days and disposed of to actual settlers under the provisions of the homestead laws, each settler being required to pay \$1.25 per acre for the lands so taken by him.

Besides all this it will be necessary to ascertain how many and who of the Indians of the several reservations elect to take allotments on the reservations where they now live, as by the terms of the act they are permitted to do, instead of being removed to White Earth Reservation (section 3). It is not seen how any of the ceded lands, except possibly those of the Red Lake Reservation and the four townships ceded in the White Earth Reservation, can be offered for sale or settlement until the Indians of the several reservations who elect to remain and take allotments where they are shall have signified their intention to so remain and shall have made their individual selections for allotment; nor can the Red Lake ceded lands be so offered until the surveys, examinations, classification, etc., shall have been fully completed.

Your approval, therefore, of the agreement will not open any of the reservations to white settlement, nor render them subject to occupancy or disposal in advance of the complete fulfillment of the preliminary work of surveys, examinations, etc., and in the case of the "pine lands," after all these preliminaries have been met, the lands must be "proclaimed as in market and offered for sale."

It is perhaps unnecessary, then, that any action should be had at this time other than the approval of the agreement.

Advertising here to the recommendation of the Commission that the Indians of the Red Lake Reservation be allowed to utilize the dead and fallen timber upon their reservation until such time as the survey, appraisalment, etc., shall be made, I think this is reasonable, and it seems

to me can be done under authority conferred by the act of February 16, 1889 (25 Stats., 673), which provides:

That the President of the United States may from year to year in his discretion under such regulations as he may prescribe, authorize the Indians residing on reservations or allotments, the fee to which remains in the United States, to fell, cut, remove, sell, or otherwise dispose of the dead timber, standing or fallen, on such reservation or allotment for the sole benefit of such Indian or Indians.

Under the authority thus conferred, the President, on October 16, 1889, authorized the Indians on the White Earth, *Red Lake*, and White Oak Point Reservations to cut and sell dead and down timber on their respective Reservations and I see no reason why the cutting and sale of the dead and down timber under the authority so granted and the regulations then prescribed may not be continued until the lands are placed upon the market as provided in the Chippewa act of January 14, 1889.

I invite attention to the fact that the instruments presented by the Commission as the result of the negotiations, and as the evidence that the Chippewa Indians in Minnesota have given their consent in writing to the cession and relinquishment of their title and interest in and to the lands as therein set forth, comprise ten parts, marked separately as A, B, C, D, E, F, and H, G, I, K, and L; these, however, in fact constitute as a whole one instrument, and the part marked C, and entitled "Signatures Roll Mississippi Chippewa Indians, White Earth Reservation, Minnesota," should be placed and considered as the first part, for the reason that it is the only part that embraces the text of the act under and for the purposes of which the Commission was appointed.

This is considered necessary, in view of the fact that the act is not recited in the other parts of the instrument, but is referred to therein as follows: "Which said act is

embraced in the foregoing instrument," meaning evidently that part marked C, etc., as above stated.

With this as explanation, and as matter of record for proper understanding of the instruments, I think it would nevertheless be well for the approval of the President to be indorsed upon each of the separate parts of the said instrument.

I further recommend that a copy of the report of the Commission, and of all its accompanying papers (except the census rolls, which are bulky), with copy of this letter of the Department reviewing the same, be submitted to Congress for its information, together with the accompanying draft of bill for making the appropriations herein suggested.

I have the honor to be, very respectfully, your obedient servant,

JOHN W. NOBLE,
Secretary.

A BILL to enable the Secretary of the Interior to carry out an act, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota, approved January 14, 1889," and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums, or to much thereof as may be necessary be, and the same are hereby, appropriated out of any moneys in the Treasury, not otherwise appropriated, to be immediately available, to enable the Secretary of the Interior to carry out an act entitled "An Act for the relief and civilization of the Chippewa Indians in the State of Minnesota, approved January fourteenth, eighteen hundred and eighty-nine, and for other purposes:"

For amount due the Chippewa Indians of Lake Superior and Mississippi, arising from balances of appropriations under treaties with said Indians, and covered into the Treasury between the years eighteen hundred and forty-three, and eighteen hundred and seventy-eight, inclusive; also, the aggregate difference between the coin value of payments made in currency during the years eighteen hundred and sixty-three and eighteen hundred and sixty-four, at the dates of Treasury warrants, and the amounts due in coin by treaty stipulations, with interest at the rate of five per centum per annum, from the date of said Treasury warrants to June thirtieth, eighteen hundred and ninety, the sum of one hundred and ninety thousand dollars, or so much thereof as may be required, to be expended by the Secretary of the Interior in the purchase of such articles as he may deem best, or in the payment of cash, to be apportioned in accordance with article eight of the treaty proclaimed January twenty-ninth, eighteen hundred and fifty-five, one hundred and ninety thousand dollars.

For compensation for losses and damage sustained by the Chippewa Indians on account of the building of dams and reservoirs on Lake Winnebagoishish, Cass Lake, and Leech Lake, the sum of one hundred and fifty thousand dollars, with interest at the rate of five per centum per annum from the seventeenth day of September, eighteen hundred and eighty-six, up to and including June thirtieth, eighteen hundred and ninety, the sum of one hundred and eighty thousand dollars, or so much thereof as may be necessary, to be paid in cash, per capita, in two yearly installments as follows: Two-thirds to the Pillager and Lake Winnebagoishish bands, now residing or entitled to reside on the Leech Lake, Lake Winnebagoishish, and Cass Lake Reservations, and one-third to the Mississippi band, now residing or entitled to reside on the White Earth, White Oak Point, and Mille Lac Reservations, one hundred and eighty thousand dollars.

For compensation for forty-six thousand nine hundred and twenty acres of land at one dollar and twenty-five cents per acre, on account of land overflowed in the construction of dams and reservoirs on Lake Winnebagoishish, Cass Lake, and Leech Lake Reservations, to be divided in the same manner as the compensation for losses and damages above referred to, and to be paid in cash, per capita, fifty-three thousand six hundred and thirty dollars.

For the purchase and erection of saw and flour mills, agricultural implements; for surveys, appraisals, removals, and allotments; for payment of expenses of delegations of Chippewa Indians to visit the White Earth Reservation; for the erection and maintenance of day and industrial schools, for subsistence and pay of employes, and for such other purposes as the Secretary of the Interior may deem proper, the sum of two hundred and fifty thousand dollars; *Provided*, That this amount shall be reimbursed to the United States from the proceeds of sales of land ceded by the Chippewa Indians under the act of January fourteenth, eighteen hundred and eighty-nine, two hundred and fifty thousand dollars.

SEC. 2. That the Secretary of the Interior is hereby authorized and directed to pay, per capita, to the Chippewa Indians entitled to it, under the act of January fourteenth, eighteen hundred and eighty-nine, the sum of ninety thousand dollars, appropriated by section eight of said act of January fourteenth, eighteen hundred and eighty-nine (Statutes 25, page 645), as first annual payment of interest contemplated and provided for, in lieu of expending it in conformity with the provisions of the above-mentioned act of January fourteenth, eighteen hundred and eighty-nine.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 2, 1880.

SIR: Agreeably with your personal request, the 31st ultimo, I have the honor to transmit herewith the final report (in triplicate) of the Commission appointed to negotiate with the different bands or tribes of Chippewa Indians in the State of Minnesota, under authority of the act of January 14, 1889 (25 Stat. 642), together with the several agreements entered into, the census of the Indians, and the proceedings of the several councils held with them.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner,

The SECRETARY OF THE INTERIOR.

UNITED STATES CHIPPEWA COMMISSION,
St. Paul, Minn., December 18, 1889.

SIR: We have forwarded to your Department by express, December 10, 17, and 18, one copy of the census taken by the Commission of the Chippewa Indians of the State of Minnesota; two copies of the stenographic record of proceedings in the councils held with them by the Commission; one copy of the agreements with the bands in the State, with the original signatures of the Indians attached; and inclose herewith one copy of a summarization of the census, and one copy of a summary showing the number of male adults in the various bands and the number of those who signed the agreements.

I shall be obliged if the receipt of the various papers is acknowledged.

Respectfully,

HENRY M. RICE,
Chairman.

Hon. T. J. MORGAN,
Commissioner of Indian Affairs,
Interior Department, Washington, D. C.

UNITED STATES CHIPPEWA COMMISSION,
St. Paul, Minn., December 26, 1880.

SIR: In obedience to instructions from your office, dated May 24, 1889, accompanied by "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889, this Commission met in this city June 11, 1889. After several meetings, it was deemed proper, owing to the deep interest the Right Reverend Bishop Whipple, and his grace Archbishop John Ireland, had taken in the welfare of the Chippewas, that they should be consulted. A copy of the following note was addressed to each, dated June 15, 1889

DEAR SIR: Your church has missions established among the Chippewa Indians in the State of Minnesota, with whom we are instructed to negotiate.

On account of the intimate knowledge you have, and the deep interest you have manifested in the elevation of this race, we deem it proper you should be represented, and it will be a pleasure to the members of this Commission to have with us some one delegated by you who may explain to the Indians any matters affecting their interests, which may be presented to them.

In response to this invitation, Bishop Whipple selected Rev. E. S. Peake, who had long resided with these Indians, and Archbishop Ireland selected the Rev. Father Aloysius, O. S. B., a resident priest among them, both of whom accompanied us to Red Lake.

That nothing should be omitted that could enlighten the Indians as to the intent of the Government, we had printed 500 copies of the act of January 14, 1889, and several hundred of the "Act to provide for the allotment of lands in severality to Indians," etc., approved February 8, 1887. These we caused to be distributed among the missionaries, teachers, and other employes of the Government, as well as traders, mixed bloods, and Indians who read the English language.

Owing to their destitute condition, the Indians were scattered in search of food, their crops having failed the previous season, and much time was taken in collecting them.

The first council was held at Red Lake, June 29, where we remained until July 8. We found them intelligent, dignified, and courteous, but for several days indisposed to give a favorable hearing. The propositions were not as favorable as those made three years ago, which did not require the proceeds of their reservation to be shared with others. The chiefs were opposed to breaking up the tribal relations, fearing that if they were so broken their power and influence would be gone. The young men, however, were heartily in favor of the allotment plan, knowing that if their lands were held in severalty, each man's earnings could be used for his own advantage, instead of, as heretofore, being necessarily shared with the idle, but they did not like the provision for providing with other bands, although when it was explained to them that the country from Lake Superior to and beyond the Red River of the North, was, by the united efforts of all the Chippewas, taken by conquest from the Sioux, and that had it not been for such united efforts, they could not have taken or held the Red Lake Reservation; they admitted the correctness of this statement, but thought some of their neighbors had received more than their due proportion of annuities from former sales.

Among themselves, boundary lines were not very strictly regarded, as those of one band intermarried with and joined such other band as was most agreeable; in fact, the young men roamed about at will. The Chippewas of this State did unquestionably, in early times, hold their lands in common. It was so in 1825, at the time of the treaty at Prairie du Chien, and no other idea would ever have been entertained had not the mistaken policy of purchasing a tract here and there from the bands contiguous thereto been adopted. Of the vast cessions heretofore made, there is little, and in many cases nothing, left to show any benefit derived by the Indians therefrom. This is owing largely to the hurtful practice, so long followed, of permitting their tribal relations to exist.

As a result of the reverence, the young men have for their chiefs, they would not speak in council, but a delegation called upon the Commission after adjournment and requested it should have patience, as they had resolved to have a council among themselves, in hope of influencing their leaders, and if successful they would continue to keep in the background. They clearly saw the advantage to them of the propositions made, including the offer of the protection of the law. Their efforts were successful and all of their bands cordially gave their assent by signing the agreement, except a few called pagans, residing upon the north shore of the lake; their head chiefs and others, however, said they had no objections, and would sign when "they saw fulfilled the promises made." We found them very poor, having comparatively nothing to work with, not even farming implements. Years ago they had a saw-mill, but from neglect, when a small expenditure would have kept it in repair, it was permitted to go to decay. So for years they have not had lumber to build new or repair old structures, or even make a coffin. They earnestly plead for a saw-mill, and also cattle and such other helps as would enable them to commence at once to improve their condition.

They claim, and we think with at least the appearance of truth, that their boundary as surveyed is not in accordance with the treaty lines. We recommend that an engineer of repute be employed to examine and report the facts.

They earnestly asked that they might be permitted to utilize the dead and fallen timber upon the reservation until such time as the survey and appraisal shall be made. As this will be of great help to them and the trees will otherwise be destroyed by fire, worms, and rot, we agreed to support this most reasonable request.

They also begged that they might have an agent, as this reservation is so far (80 miles or more) from the White Earth Agency.

We think the Red Lake Indians, if properly added, will become self-supporting and useful citizens.

The Red Lake Reservation, which they cede to the United States, contains 3,260,000 acres. The number of Indians occupying the same is 1,168.

The boundaries of the diminished reservation, from which allotments to the Red Lake Chippewas are to be made, are as follows:

Commencing at Thief River at a point on the dividing line between Marshall and Polk Counties, as designated on a map published by Rand, McNally & Co., of Chicago, in 1888; thence easterly to a point on the northwesterly shore of Upper Red Lake; thence along the northern shore of said lake to a point due north of a point 1 mile due east from the eastern end of the Lower Red Lake; thence southwesterly to a point on Hay Creek 1 mile from its mouth thence due south to a point due east of a due westerly line which when extended will run between what is known as the most southerly sugar-bush on Red Lake road to White Earth, and north of what is called the "Big Marsh" to Clearwater River (said line being about

6 miles south of Red Lake); thence down Clearwater River to the southwesterly reservation line; thence along said line to the place of beginning (excepting the right to use in common all the water-ways within the above described limits).

This is larger than they will eventually require, but as there are swamps and other untillable lands therein, it can not be reduced until after survey and allotment shall be made.

White Earth Reservation, occupied by the Chippewas of the Mississippi, Pembinas, and Otter Tail Pillagers, contains 796,672 acres, of which they cede to the United States four townships of pine land, viz: Townships 143, 144, 145, and 146, range 37 west. Residing on this reservation are Chippewas of the Mississippi, 1,169; Otter Tail Pillagers, 657; Pembinas, 218.

The first council was held at White Earth July 17, and the last on July 29. As with the Red Lake Indians, they were suffering for want of food, owing to the loss of their crops by early and severe frosts the season before. All were strenuously opposed to entertaining any propositions until the provisions of article 9, of the treaty of September 30, 1854, made at La Pointe, Wis., was fulfilled, and a settlement had for the damages to their reservation near the headwaters of the Mississippi, caused by building the reservoir dams; provisions for an adjustment in each case was made by the Northwest Commission three years ago in negotiations with them and the Leech Lake Indians, which negotiations have not been acted upon by Congress.

In regard to the treaty of September 30, 1854, it was impossible for us to explain why its plain and unquestioned provisions had not been fulfilled. The Chippewas employed an agent, and a delegation accompanied him to Washington some years ago, and after urgently insisting upon a settlement, there was found due to them the

sum of \$118,400, which had accrued from balances that had been covered into the Treasury between the years 1843 and 1878. This amount has never been questioned as being due under the treaty stipulations, and in the opinion of this Commission should be included in regular estimates. We gave the most solemn promises that our best efforts would be given to secure justice in this case, believing that we but voiced the intent of the Government in so doing. After giving assurances that justice would be speedily done and that we would bring the attention of the Department to those claims, the acceptance and signing of the propositions made was nearly unanimous.

The following will show that the Indians had been officially informed of the amount due them up to and including the year 1878. (Two-thirds of this amount goes to the Chippewas of Lake Superior, and one-third to those of the Mississippi.)

OFFICE OF INDIAN AFFAIRS,
Washington, December 8, 1884.

SIR: I am in receipt of your letter dated the 29th ultimo, in which you state that four years ago you were called to this city to converse on matters concerning your reservation: that while you were informed that there was due to your people the sum of \$118,400; that said sum would be paid in annual installments; that 50,000 thereof was drawing interest, and that said interest would be paid to the Chipewas.

You want to know why these promises have not been kept, and that you be informed in brief what you are to expect, etc.

In reply I have to state that on the recommendation of this office, on the 5th day of April, 1880, a bill was introduced in Congress to authorize the Secretary of the Interior to fulfill certain treaty stipulations with the Chippewa Indians of Lake Superior and Mississippi. This bill

proposed an appropriation of the sum of \$118,406.29, being the total amount arising from balances of appropriations under treaties with said Indians and covered into the Treasury between the years 1843 and 1878, inclusive. And the aggregate difference between the coin value of payments made in currency during the years 1863, 1864, and the amounts due in coin by treaty stipulations with interest at 5 per cent, per annum, from date of Treasury warrants to February 6, 1880.

Section 2 of this bill provided that of the above amounts \$38,400.29 should be paid to the said Indians and that the remainder, \$80,000, should remain in the Treasury to draw interest at 5 per cent., said interest to be paid annually per capita or expended for the benefit of the Chippewa, under the direction of the Secretary of the Interior.

This bill never became a law through the failure of Congress to take action, and this office has exhausted its endeavors to obtain the appropriation named.

Very respectfully,

H. PRICE,
Commissioner.

ANKE-WAIN-ZE,
Head Chief of Lac Courte D'Orielles.

(Care United States Indian Agent, La Pointe Agency, Wis.)

See also the speech of Hon. Jacob H. Stewart, of Minnesota, in the House of Representatives, delivered Monday, February 24, 1879, on the bill (H. R. 6471) making appropriations for civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, as printed in the Congressional Record, March 1, 1879, under "Sundry Civil Appropriation Bill." The speech referred to contains the report of the committee upon this subject.

Messengers are now out, sent by the Chippewas of Lake Superior to those of the Mississippi, inviting them

to send delegates to meet in convention at Ashland, Wis., on January 11 next, for the purpose of employing claim agents to prosecute and collect the amount found due, to, and including the year 1878, as stated by the Indian Office, April 5, 1880, viz, \$118,400, with interest to date at 5 per cent., \$59,200; total, \$177,600.

The claim agents expect the Indians to allow them 15 per cent. of the amount. It can but be determined to the Indians to be thus harassed, kept in suspense, and finally compelled to pay to others a large commission in order to secure the payment of a just claim against the Government.

These Indians have an old saw-mill, but for want of repairs it can not be used.

Their flouring-mill, not being properly cared for, was burned a short time ago, but for want of repairs had not been running for several years. Consequently the Indians such as had grain have been compelled to go many miles to have it ground.

When in the settlements of the whites, to say nothing of the expense and loss of time, they are subject to unavoidable temptations. Many have not teams and have to employ others to take their grain to the mills, and after paying transportation and toll, leaves but a moiety for their use. The Indians made special complaints in regard to the want of milling facilities. At their request, with the aid of Agent Schuler, we investigated the condition of their farms, and found about 5,000 acres seeded in wheat, oats, barley, and vegetables, but owing to the want of rain not more than half a crop will be grown. At least 2,500 acres heretofore cultivated lies fallow for the want of seed and teams.

Here, as well as at Red Lake, Rev. Mr. Peake, rendered valuable services.

After completing our work at White Earth we went to Gull Lake, where we found a small band, numbering 277, belonging to the Chippewas of the Mississippi. Some of them had attended the councils at White Earth, and all seemed familiar with the propositions submitted to them. We, however, went through with the explanations in detail, and after consultation among themselves all signed the agreement. They promised to make their permanent home on the White Earth Reservation as soon as they should be furnished with means to enable them to cultivate the soil and to subsist until they can make a living. This agreement was concluded on the 5th of August.

We held the first council at Leech Lake, August 8. We were received at this place with all the pomp and show the Indians could display. Guns were fired and every flag in the settlement was flying. A guard of honor, dressed in war feathers and decorated with paint, greeted us with open arms. We were informed that this guard was for our protection, especially to keep the pillagers from giving us any personal annoyance. Faithfully did they perform their duty, not only by day but by night. No Indians were permitted to see us unless accompanied by a detail from this polite and considerate guard, which was master of the situation. The party that originated and organized this body, knowing the object of our mission from the copies of the act we had sent in advance, as well as from persons of their own band who had attended the councils at Red Lake and White Earth, were fully determined that no business should be transacted between the band and the Commission until they should be satisfied that it had the authority to provide for the settlement of outstanding claims. They were polite and courteous, but were resolved to keep us, as well as the uncertain of their band, under the restraint of the guard. They felt that they had been grievously wronged.

After a few days we broke their lines, inducing the chiefs to speak in council who for several days had not

been heard. Stormy debates took place in council, accompanied by threats, which afterwards, at the request of the chiefs, the commission directed to be stricken from the minutes.

These Indians, even the most bitterly opposed, said that had we come empowered to adjust unsettled matters they would not have made any objections to the propositions, nor would they have detained us long. Enough, however, gave their consent as required in writing. Others said that they would assent when they saw a disposition on the part of the Government to right the wrongs they had suffered. We were kept there until August 22. We had to give a solemn promise with raised hands that we would to our utmost ability urge the immediate settlement of unadjusted claims.

On the 21st of August, 1847, the Pillager Indians at Leech Lake, Minn., ceded to the United States a tract of land bounded as follows:

Beginning at the south end of Otter Tail Lake; thence southerly *on the boundary line between the Sioux and Chippewa Indians*, to Long Prairie River; thence up said river to Crow Wing River; thence up Crow Wing River to Leaf River; thence up Leaf River to the head of said river; and thence in a direct line to the place of the beginning.

This tract contains nearly 700,000 acres, and was sold to the Government for about \$15,000. The Pillagers parted with it, believing, as they were told, that it was for the occupancy of the Menomonee Indians, a tribe at peace with them as well as with the Sioux. For generations a fierce war had raged between these two last-named tribes. The pillagers believed that if the friendly Menomonees were between the belligerents peace might follow. By the treaty of October 18, 1848, the United States ceded to the Menomonees the above-described tract in exchange for all their lands in the State of Wisconsin.

The Menomonees, manifesting a great unwillingness to remove west of the Mississippi, by treaty dated May 12, 1884, receded to the United States the foregoing tract in exchange for a part of their old home in Wisconsin and the sum of \$242,686, for which the Pillagers received less than \$15,000. According to Indian reasoning the consideration stipulated was never paid; that is, the occupancy of said tract by the Menomonees, thus protecting them from the incursions of Sioux war parties.

The Pillagers, at the time of the cession, were told by the commissioners that the said tract would be held as Indian lands are usually held, and that their friends, the Menomonees, would occupy it. The commissioners were Isaac A. Verplank and Henry M. Rice. The Pillagers from the time that they heard that the tract was not to be occupied by the Menomonees, as stipulated, have to this day considered that they have been injuriously overreached. They have never ceased to complain of this, and never will until reparation shall be made. We can not too strongly urge that the Government cause this matter to be carefully investigated, and in some way allow the Pillagers what may be found to be in equity due them. Indians are not unreasonable when fairly dealt with, and as they are about starting out as citizens under this act, aid will be of greater benefit now than heretofore, and is more needful now than it can be at any future time.

As to the damage done by the overflow of the reservoir dams, the Department is respectfully referred to the following communication:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 19, 1883.

SIR: By a provision in the river and harbor act of June 14, 1880 (21 Stat., 193), the sum of \$75,000 was appropriated for the reservoirs at the headwaters of the Mississippi River, to be used in the construction of a dam at

Lake Winnebagoishish, with the proviso that all injuries occasioned to individuals by overflow of their lands shall be ascertained and determined by agreements, in accordance with the laws of Minnesota, and shall not exceed in the aggregate \$5,000, etc.; and by a provision in the river and harbor act of March 3, 1881 (*Id.*, 481), the sum of \$150,000 was appropriated for reservoirs upon the headwaters of the Mississippi River and its tributaries, and the Secretary of the Interior is authorized and directed to ascertain what, if any, injury is occasioned to the rights of any friendly Indians occupying any Indian reservation by the construction of any of said dams, or the cutting or the removal of the trees or other materials from any such reservation for the construction or erection of any of said dams, and to determine the amount of damages payable to such Indians therefor, which damages, when determined, to be paid by the United States, with the proviso that such damages shall not exceed 10 per centum of the sums hereby and heretofore (act 1880, \$75,000) appropriated for the construction of said reservoirs.

Under these provisions of law Messrs. A. Barnard, of Minneapolis, Thomas Simpson, of Winona, Minn., and Louis Morel, of this office, were designated by the Department, on the 11th of August, 1881, as special agents to ascertain the injury occasioned to friendly Indians by the construction of the reservoirs at Lake Winnebagoishish and Leech Lake, and to determine the amount of damages payable to such friendly Indians as might suffer on account of the construction of said reservoirs; and on the 20th of August the necessary instructions were issued to said agents, defining their duties, and the manner of proceeding to ascertain and determine the damages resulting to friendly Indians.

On the 6th of October, 1881, these agents submitted their findings and award, which was submitted to the Department on October 18, following, for consideration,

and, if approved, to be forwarded to the Secretary of War for settlement under the act of 1881.

The injuries arising from the construction of these reservoirs and the assessments of damages to friendly Indians were considered by these agents and reported in separate schedules, one for Lake Winnebagoishish and the other for Leech Lake, being classified as (1) injuries to individual property, and (2) injuries to tribal property.

The damages were, in the aggregate, at Lake Winnebagoishish, assessed at \$8,393.30, and those at Leech Lake, \$7,073.60.

These valuations, amounting jointly to \$15,466.90, were approved by the Department and forwarded to the War Department, and the money was placed to the credit of the Interior Department for distribution under the award.

The Indians protested against this assessment as being entirely too small, and at one time there was danger of a serious outbreak, but the violence was prevented by the friends of the Indians, with the hope that the question of damages would be reconsidered.

These facts having come to the knowledge of the Department, it was determined to appoint a new commission to assess the damages and on December 23, 1882, you appointed and commissioned for that purpose General H. H. Sibley and William R. Marshall and Rev. J. A. Gilfillan, who were to serve without compensation other than their necessary expenses. Subsequently General Sibley, on account of ill health, resigned, and R. Blakely, esq., was appointed to fill his place.

I am now in receipt, by Department reference, of the report of these gentlemen, dated the 4th instant, submitting in detail the result of their findings. They state that it was entirely out of the question for the commission to arrive at a reasonable agreement with the Indians as to the

amount of damages by the reason of the construction of the dams; and that the amount of land overflowed has been materially reduced, as indicated in letter of Major Allen, of October 24, 1883, the amount being only 46,920 acres, instead of 101,940 acres, as heretofore reported, and in the aggregate is divided as follows, viz:

Winnebagoish reservoirs, 23,240 acres; Leech Lake reservoirs, 28,680 acres.

The commission make awards for timber cut, rock taken, and damages to industries, but none for land taken.

Lake Winnebagoish and Cass Lake:

Personal property	\$1,936.50
Tribal property	3,649.58
	<u>5,586.08</u>

Leech Lake:

Personal property	105.00
Tribal property	1,075.00
	<u>1,180.00</u>

White Earth and Mississippi bands, pine cut, \$3,272.10.

The Commission estimate for these latter bands an annual damage for rice, at 10 cents per pound, \$8,610, and for hay, at \$28 per ton, \$9,800; total \$18,410.

For the Indians at Lake Winnebagoish and Cass Lake they estimate the annual damage as follows, viz:

Hay	\$3,640.00
Loss of fish	4,350.00
Loss of cranberries	300.00
Loss of sugar	100.00
Total	<u>8,390.00</u>

The Commission say that the Indians will be very materially damaged in their industries and will require permanent provision. The total damage awarded by the Commission, outside of resultant damages, is as follows, viz:

Individual property	\$2,041.50
Tribal property	<u>7,996.68</u>

Total 10,038.18

The total annual damage awarded by them is \$26,800.

The estimate of the Commission for annual damages for rice at 10 cents per pound, and hay at \$28 per ton, would appear at first sight to be rather extravagant, but when we consider that over 46,000 acres of land are taken from the Indians without any compensation whatever, it is believed that the estimate is not too high.

There are funds now at the disposition of this Department, under the act of 1881, sufficient to pay the damage awarded for individual and tribal property, \$10,038.18, but as the Indians refused to accept the award in this respect of the former Commission, which is some \$5,000 greater than that of the present Commission, they will hardly accept the latter unless an appropriation is made to pay the annual damages awarded by the latter Commission.

In accordance with the award of the Commission it will require \$36,838.18 for present payment, of which amount, as before stated, \$10,038.18 is available, leaving \$26,800 to be provided for.

As the acts of 1880 and 1881 make provision for payment of present damages only and some for the payment of annual damages, I am of opinion that this sum for the present year should be treated as a deficiency, and recommend that Congress be asked to attach an item to the deficiency bill, already submitted by this Department, appropriating the sum of \$26,800, and that annually here-

after an appropriation of \$26,800 be made in order to carry out the award of the Commission.

Very respectfully, your obedient servant,

H. PRICIE, *Commissioner*.

The SECRETARY OF THE INTERIOR.

It appears by this that the award, amounting to \$15,466.90, was without hesitation rejected by the Indians. Is it surprising that they should have done so, when the United States engineer, Major Allen, reported that the number of acres overflowed amounted to 46,920, which overflow destroyed their gardens, their rice fields, their hay lands, their fish, and their grave-yards? It is an annual and perpetual loss. The award did not allow 40 cents an acre for the land, to say nothing of the damages occasioned by the loss of their almost sole subsistence.

On December 22, 1882, a new commission, consisting of General and Ex-Governor William R. Marshall, Capt. R. Blakeley, and Rev. J. A. Gilfillam, was appointed; practical, thorough-going men, in whose judgment every one had confidence. After a careful and exhaustive examination these gentlemen estimated the annual damages at \$26,800, and the damages to individual and tribal property at \$10,038.18.

The Commissioner of Indian Affairs then approved of this award. He said:

In accordance with the award of the Commission it will require \$36,838.18 for the present payment, of which amount, as before stated, \$10,038.18 is available, leaving \$26,800 to be provided for; and that annually thereafter an appropriation of \$26,800 be made, in order to carry out the award of the Commission.

The Secretary of the Interior, in approving of the foregoing, says:

No award is made by the Commission for or on account of the land taken and occupied in the construction of the reservoirs.

By the fourth article of agreement made by the Northwest Indian Commission (not acted upon by Congress) on the part of the United States and the Pillager Indians, it was agreed that the United States would pay said Indians \$150,000, which should be in full satisfaction for losses and damages sustained by them, one-third of said sum to be paid to the Chippewas of the Mississippi, and two-thirds to the Pillagers, etc., from which agreement they never heard until informed by us.

From information received on this subject, this Commission can not recommend a less award than the amount mentioned, viz, \$150,000, with 5 per cent. interest per annum to date, and \$1.25 per acre for the overflowed lands. These Indians have absolutely ceded to the United States 46,920 acres, which can not be sold as provided in the act of January 14, 1889, for their benefit, as it is and must be reserved for the overflow caused by the reservoir dams.

From Leech Lake we went to Cass Lake, holding our first council there August 23, and the last on the 26th of the same month. As many of the Indians of this band attended all the councils at Leech Lake, all they required was that explanation should be made to those who were not present at the latter place. They in strong terms asked that unsettled matters be liquidated as soon as possible. All freely gave their assent and signatures to the propositions.

From there we went to the Lake Winnebagoish band. We had much trouble in assembling them as they were out gathering wild rice. Our first council was held August 31, and the last September 2, but we were in almost constant session day and night, as they were anxious to return to their rice fields. Several of the chiefs had at-

tended the councils at Leech Lake, and seemed well informed of the object of our visit. The injury done them in building the reservoir dams was without doubt very great. Two or three of their burying grounds were so washed by the overflow that the remains of their buried dead were unearthed and scattered along the shore. This desecration but added poignancy to the sorrow caused by the loss of subsistence.

Here, as at Cass Lake, they felt deeply hurt that those who were in the greatest want—the old, the sick, and the helpless young—should have been compelled to *appear in person* at Leech Lake when their annuities were paid or go without them. This harmful practice could be easily avoided by paying to the representatives of such, with the approval of the chief, the amount due. These Indians, like those of Cass Lake, are destitute of aid from the Government, having no missionary, school, farmer, blacksmith, or physician. The Winnebago Reservation is marked upon the map by township lines, which is erroneous, as the treaty fixes its line by natural boundaries beyond those shown by township lines. This has given much dissatisfaction, as whites have settled between the two lines, and consequently upon the reservation, as the Indians claim. The matter should be adjusted. Every adult male of the band gave his assent to the agreement.

On September 5 we held a council with a part of the White Oak Point Indians at Payment Point; on the 6th at White Oak Point, and on the 7th near Grand Rapids. Most of these Indians showed such signs of dissipation and consequent degradation as would lead one to fear they were beyond the hope of improvement. They seem aware of their condition, and tremblingly asked that whisky might be kept from the county. They also asked that missionaries and school teachers be sent them. They seemed like lost wards of the Government, who had fallen into the hands of their worst enemies, the whisky sellers. All present gave their signatures.

From the last point we sent our messengers to find the scattered members of other White Oak Point bands, and succeeded in gathering them at Kimberly, a water tank station on the Northern Pacific Railroad, where we held the first council September 19, and our last on the 23d. The two leading chiefs had attended the councils at White Earth, and had made known to their people the object of our mission. We found these people healthy in body and mind, unusually bright, and careful of self. All were anxious to acquire land in severalty, and the young men were eager to find work. Their very appearance indicated a working and industrious class. They said they had been forced to look for subsistence outside of their reservation. Their bands numbered one hundred men. All except one signed the agreement.

On the 2d of October we met the Mille Lac Indians, and were with them until the close of the 5th, and almost constantly in council.

Contrary to the general opinion, we found them intelligent, cleanly, and well behaved. Their neighboring white settlers gave them a good name. Some who had been on these borders for many years said they had never been molested in person or property by them. Upon this reservation there are a large number of whites, who have made claims thereon, and even many of these testified to the harmless conduct of the Indians. Their principal fault seems to lie in possessing lands that the white man wants.

This reservation was set aside for their use by treaty of February 22, 1855, and was guarantied as their permanent home. By this treaty land was to be plowed and prepared for cultivation. As a sample of injustice to them we were told that the land had been plowed several miles north of their reservation, and not a foot for their use thereon. To satisfy ourselves of this, we visited the place designated (lots 1 and 2, section 13, township 44, range 28 west) and ascertained from the then occupant, a very

respectable citizen by the name of Dinwiddie, that his farm embraced the improvement mentioned, which had been made before he purchased.

By the treaty of March 11, 1863, this reservation was ceded to the United States, but by a proviso in article 12 it was stipulated—

That owing to the heretofore good conduct of the Mille Lac Indians they shall not be compelled to remove so long as they shall not in any way interfere with or in any manner molest the persons or property of the whites.

By article 4 of same treaty it was agreed that the United States should clear and stump and grub and break for the Mille Lac band, upon said reservation, 70 acres of land, which confirmed the belief that they were not only permanently located, but had the sole occupancy of the reservation.

In the treaty of May 7, 1864, which was intended to supersede the one last alluded to, article 4 makes the same stipulation as to the breaking of 70 acres of land, and by article 12 a promise as to their living thereon, the same as provided by the treaty of March 11, 1863.

The Interior Department now holds that—

The Mille Lac Indians have never forfeited their right to occupancy and still reside on the reservation.

But, notwithstanding this, white men have been permitted to rob them of their pine, and for years to settle upon their agricultural lands, and there to remain in quiet possession to this day to the great injury and fear of the Indians. Some of the whites had the shameless audacity to take from the Indians land the latter had, with much labor and perseverance, put into cultivation. Squatters are now settling upon this reservation, and the interest of the Indians ignored.

There are many persons upon the Mille Lac Reservation who went there believing that they had a right so to do. They were induced to believe so by the action of persons who not only sought the rich pine forests thereon, but actually secured, as is believed, patents to many acres thereof. It is possible matters can be so arranged as to give in some way protection to the well intentioned but misled whites who have made homes upon this tract; but be that as it may, the question of right should be settled at the earliest possible moment, for the greater the delay the more difficult will be its adjustment.

All present assented to the agreement and signed the same.

One council was held at Grand Marais, with a part of the Grand Portage band, October 20. These Indians accompanied the Commission to Grand Portage, where councils were held October 23, 24, and 25. At these councils the Indians gave very marked attention, and at the last council expressed themselves as fully understanding and fully satisfied with the terms of the act, and signed the article of agreement with much cheerfulness and unanimity. These Indians complain that white fishermen spread so many large nets near their reservation that the Indians are unable to procure a supply of fish for food.

Bois Forte and Vermillion councils were held November 9, 10, 11, and 12.

At the first council the Indians seemed timid and distrustful. Indeed, the Vermilion Lake and Net Lake parties seemed to distrust each other, and declined to enter into the discussion of the subject presented to them. Subsequently better councils prevailed, and the Indians announced that they should hereafter act as a unit. From this time the discussion was entered into with freedom and cheerfulness, and finally resulted in their "touching the pen" with great solemnity and much formality.

These Indians have the best hunting grounds of any of the Chippewa bands; there being contiguous to them an immense tract of timber land over which the white man seldom passes. They seem willing to learn to till the soil, but ask for better facilities. When asked how they cultivated their potatoes, these men of the North say they drove a stake into the ground and pried up the earth, and then made it fine with their hands. Much of the lands on the Lake Superior Reservations is unfit for cultivation. And it is believed that if representatives from these bands can visit White Earth, many of them will cheerfully remove there. The Bois Forte Indians complain that they have been despoiled of a large amount of timber cut from their reservation, which is run down Little Fork River to the British possessions. We promised to call the attention of the Department to this.

At Fond du Lac the first council was held November 18, and continued daily until and including November 21.

It will be seen by the proceedings that Nah-gah-nub, the head chief, did much of the talking. He is a very old man and not in his prime, physically or mentally, but is respected by all. Many of his band for want of work (the cutting of timber on this reservation having been suspended by order of the Department) are in great danger of suffering during this winter and coming spring. Heretofore, while permitted to cut timber, they were well to do and contented.

Like all of the Mississippi bands, they feel greatly grieved at the long continued withholding of the money due them from the Government. Our positive assertions that justice should speedily be done, not only in this respect, but in the matter of a palpable error in the boundary lines of their reservation, induced them to listen attentively to the propositions submitted, and all touched the pen.

By the fourth article of treaty at La Pointe, September 30, 1854, it is stipulated, that the Fond du Lac Reservation shall embrace the following boundaries:

Beginning at an island in the St. Louis River, above Knife Portage, called by the Indians Paw-paw-sco-me-me-tig, running thence west to the boundary line heretofore described, thence north along said boundary line to the mouth of Savannah River, thence down the St. Louis River to the place of the beginning. And if said tract shall contain less than 100,000 acres, a strip of land shall be added on the south side thereof large enough to equal such deficiency.

Whoever was sent to make a survey of this reservation followed the last clause of the article, and by his survey limited the area to 92,346 acres, the north end of his survey line on the west not reaching within 12 miles of the mouth of the Savannah River, thus defrauding these Indians of over 100,000 acres, which lands were put into the market and long ago disposed of by the United States; and for over a quarter of a century this injustice has been permitted to exist, a festering and deep-seated cause of complaint against the Government. The Indians at the time of the making of the treaty had the boundary lines definitely fixed, by natural lines to them unmistakable. They knew no more about acres than they did of the mariner's compass.

We had no hesitation in promising that the Government would speedily remedy this grave error.

As the various bands decided to take their allotments on their respective reservations, and have constructively done so, we told them that the \$90,000 to be advanced and already appropriated would be paid pro rata, as soon after the approval of these negotiations by the President as should be practicable, but not later than the coming spring. The amount will be so small to be paid to each individual that it is not probable that any will elect to

receive anything but money. As they are in the most destitute condition, and as we gave them to understand that the money would be so paid, we trust neither the Indians nor the Commission will be disappointed in this.

The clause of the act of January 14, 1889, providing for the payment of the interest that may accrue on the permanent fund, was to us obscure inasmuch as it says "one half of said interest shall be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use, and one-fourth of said interest shall during the same period and with the like exception be annually paid in cash in equal shares per capita to all other classes of said Indians," etc., and as we could neither explain this to the Indians or comprehend it so as to give it such an interpretation as would do equal justice we promised the cash payment should be made per capita in equal shares.

Wherever we went the Indians expressed a desire that the Government would set aside a sufficient quantity of land upon each reservation for Government buildings, such as may be necessary for physician, blacksmith, farmer, carpenters, and for missionaries, traders, etc. We hope this will be done, and that order, as to the location and the erection of all such buildings, will be enforced.

They also requested that upon each reservation a tract of pine land be reserved and held by the General Government, as might be necessary for their common use, and to be so held during the pleasure of the Secretary of the Interior. We earnestly commend this request.

They all earnestly plead for saw-mills, cattle, agricultural and mechanical implements, which they must have or they can make no substantial progress. They must be assisted in breaking and fencing land, building houses, and with provisions, until they can sustain themselves. They are no longer tribal Indians, but citizens at present helpless, and must be treated as such. The saw-mills are of

the utmost importance, for at present nearly all live in single-room wigwams or huts, where privacy is unknown, without or within. To return young boys and girls to such abodes who have been educated in refined and chaste society at Government schools in the East will be destructive to their morals and a loss of the expense incurred.

Although the Indians have decided to take their allotments upon their reservations, it will not be well, in many cases, they should do so, and we believe that if rightly cared for, many can be induced in the near future to remove to White Earth. For this reason it may not be prudent to urge the making of individual allotments upon other than White Earth and Red Lake Reservations at present.

According to the established custom, none but chiefs and headmen speak in council, but at various places others conferred with us by day and by night, and many as individuals expressed a desire to remove to White Earth as soon as provisions can be made for their subsistence. Their removal should be encouraged, as it will be of the greatest benefit to the Indians and to the State. It is now impracticable to make allotments upon any save the White Earth Reservations, and will be until the others shall be surveyed. All but the White Earth and a part of the Red Lake Reservation, are heavily timbered and unfit for cultivation without a heavy expenditure of money and labor, and at best can not for many years be profitably farmed; and it is doubtful, now that the game has nearly all disappeared, if for several years they can raise enough for self-support.

As 10 acres of maple timber for sugar making is a large tract for one family, they requested that, to accommodate as many as possible, 10 acres only, by legal subdivisions, should be allowed each family now occupying the same. We promised to ask that this most sensible request be granted.

As the four townships of pine land ceded to the Government, of the White Earth Reservation, have been surveyed, and as the timber is liable to be stolen or burned, the Indians desire an early estimate and sale of the same.

On some of the reservations there are swamps of valuable cedar and tamarac which can not be cultivated or sold for agricultural purposes, and the land is liable to be denuded of the timber by trespassers. The Indians request that such land be withheld from sale under the preemption laws, and that the Secretary of the Interior be authorized to cause the same to be sold in such manner and upon such terms as to him shall seem best for their interest.

It is reported and believed that upon the Grand Portage, Bois Forte, and Vermilion Reservations there are valuable mines, and that if such are discovered after examination they shall be disposed of by the Secretary of the Interior so as to best subserve the interests of the Indians. This is in accordance with their request.

A further appropriation for surveys and examination of lands will be necessary. The pine ceded is estimated by various parties to reach in value from twenty-five to fifty millions of dollars. A small appropriation can be used for the purpose of defraying the expenses of Indians from a distance who may desire or can be persuaded to visit the White Earth Reservation with the expectation of removing thereto before allotments shall be taken or confirmed elsewhere.

Provision should be made for a mill, furnishing cattle, and farming implements, etc., to enable the Red Lake Indians to commence farming and building houses the coming spring.

The head chief of the Pillagers, Flatmouth, has for several years resided in Canada, his sister, Ruth Flatmouth, is in her brother's absence the acknowledged Queen, or leader of the Pillagers; two other women of hereditary

right acted as leaders of their respective bands, and at the request of the chiefs were permitted to sign the agreements.

In taking the census, which was a tedious work, we took unusual pains to see that all rightful persons were included, and in every case not only submitted it to the chiefs and leading persons of the tribe, but secured their presence and assistance. After having explained to them the importance of accuracy, they fully and earnestly gave their best efforts to insure its correctness.

United States Agent B. P. Schuler accompanied us to each and every band within his jurisdiction, and gave us most valuable official as well as personal assistance.

Mr. A. Leahy, United States agent at Ashland, joined the commission at the Fond du Lac Reservation and rendered us material aid.

Father Aloysius, O. S. B., was with us at Red Lake, White Earth, and Leech Lake, and at all times used his influence in the interest of our work.

In no instance did we encounter opposition from the traders or white men, husbands of Indian women; on the contrary all readily gave such assistance as they could. We feel warranted in saying that there was not an Indian who was not fully informed of the purport of our mission, and that the assent of all would have been obtained had authority been given us to put in the way of adjustment unsettled claims.

In the expenditures incident to the long distance traveled, the length of time consumed, the number of Indians we were compelled to subsist, and the large force we had to employ as messengers in taking the census and aiding in securing the signatures of such only as were authorized to sign the agreements, and making in duplicate said agreements, and in triplicate the census rolls, we have had

constantly in view the injunction of "observing and practicing the utmost economy."

Among the Indians are many well-educated mixed-bloods, who will be of great assistance in leading the unenlightened onward.

In Michigan, Wisconsin, and elsewhere we know there are persons of Chippewa blood that will claim, and no doubt many are entitled to, the benefits under the recent negotiations, who were, from their higher education and associations, forced to separate from their bands and seek a living and more congenial society elsewhere, who, now that they can hold lands in severalty and come under the protection of the law, will return to their old homes; for such consideration should be given hereafter. We think, however, that the safe rule to be observed will be to consult the chiefs and head men as to the justice of their claims.

To enable the Indians to commence their new life in such a way as will, *without loss of time*, encourage them to follow all industrial pursuits possible, it is evident a sum should be advanced by the Government sufficient to enable them, with their labor, to put as much land under cultivation and build as many homes as practicable. At each and every place, either in open council or in private consultation, they were urgent in requesting such aids as are indispensable to white men. Especially, all not pagans expressed a decided preference for mission schools, deeming it essential that the morals of their children, as well as their education, should receive careful attention.

If this shall be done and the Indians are properly guided, the most happy results may be expected to follow.

Give the Indian justice, kind and patient treatment, and his confidence can be gained, and by a wise hand he can be started on the road to a useful life. He is naturally trustful, with strong attachments for those he believes to

be his friends. To his enemies and to those he distrusts, a different nature will be unmistakably visible.

In carrying out this new departure, many details must be considered. Of the final result of this most beneficent measure, properly put into execution, there can not be a doubt.

Respectfully,

HENRY M. RICE.
MARTIN MARTY.
JOSEPH B. WHITING.

Hon. T. J. MORGAN,
*Commissioner of Indian Affairs,
Interior Department, Washington, D. C.*

*Schedule showing the number of acres in the
Chippewa reservations in the State of Minnesota.*

Bois Fort	107,509
Deer Creek	23,040
Fond du Lac	92,346
Grand Portage	51,840
Leech Lake	94,440
Mille Lac	61,014
Red Lake and Pembina bands	3,200,000
Vermillion Lake	1,080
White Earth	796,672
Winnebagoishish, Cass Lake, and White Oak Point	329,000
Total	4,747,931

Name of band	Number in each band				Number assenting
	Adult males	Adult females	Minors	Total	
Red Lake and Pembina Chippewas	386	422	578	1,386	324
Mississippi Chippewas	934	854	1,414	3,002	688
Pillager and Lake Winnebagoshish	600	649	959	2,208	466
Grand Portage Chippewas	73	85	136	294	72
Bois Forte Chippewas	228	224	291	743	211
Fond du Lac Chippewas	157	187	327	671	123
Total	2,178			8,304	1,884

* * * *

FIRST COUNCIL AT LEECH LAKE.

AUGUST 8, 1889.

Mr. RICE. After the lapse of many years, it is pleasant to return and meet so many of you here. It, however, makes me sad to miss so many faces that I saw long, long ago, but those who have been called by the Master of Life to the spirit land have left their representative behind. In dealing with you, I can not but think that your fathers or their spirits are present, and if the result of our negotiations shall be as pleasant as those had with your fathers, I shall leave here with a light heart. We may not have brought as much sunshine as we or you would desire, but we hope that we have brought something which will clear away the clouds that have hung over you so long.

The business upon which we have come is of the utmost importance. It is of more importance to you than any business you have ever transacted. It is not so much for the present as for the long future. It will require your best attention, your best thought, and the aid of your wisest men. We do not expect that you will all be of one mind;

you will at first differ very materially among yourselves, but by discussion and comparison of views, some of you will perhaps see the matter differently than at first. All we want now is your earnest consideration, and we will give you all the time that is necessary for consultation. We shall not hurry you. We wish you to bear in mind particularly that whatever your answer may be, if it is given in the spirit of friendship, it will be satisfactory to us. We shall leave the decision entirely to you and will be satisfied with it, hoping that it will be for the best.

We have thought perhaps you might desire another interpreter—one who is more intimate and familiar with you than the one we have brought—and if so, you may have one. So far as in our power we will gratify you in everything that is right which you demand. We will wait a moment before proceeding with the business before us, for you to determine whether or not you will select another interpreter. If you do not desire to name another we will proceed with the reading of the act, and at the next session, if you desire another one, all you will have to do is to say so.

Colonel Whiting will now read the act to you.

Commissioner WHITING. Friends, although I am a stranger to you, I beg you to accept my kindly greeting. The chairman of the commission directs me to read to you the law under which we proceed.

Commissioner Whiting then read the act of Congress, it being carefully interpreted, phrase by phrase, by the interpreter.

MR. RICK. You have heard the act read, and we wish to know whether you have anything to say in reply. If not, we will fix upon an hour to which we will adjourn.

If you are ready this afternoon we will give you an explanation of the act; the council now stands adjourned until 2 o'clock.

(Upon the announcement of the adjournment, Ruth Flat Mouth, the only representative on the reservation of the family of the celebrated chief, Flat Mouth, and the only woman present at the council, where she sat at the head of a line of chiefs, arose and greeted the commissioners by shaking hands with them, she being followed in order of precedence by the chiefs.)

The opening of the council in the afternoon was delayed by a council which was being held by the Indians. Kay-gway-je-way-be-nung appearing before the commissioners and announcing to the Indians present, that those in the council outside did not wish those in the council inside to say anything until the outside council was finished.

O-ge-mah remarked to the Indians then present in the council, that it was not the custom among the whites to make any reply during negotiations until everything said by the other side was understood, when an intelligent response could be made, and that he recommended that procedure.

The Indians who had been in council elsewhere, came in half an hour later, when the council was called to order.

Mr. RICE. If you are ready, I will now endeavor to explain to you the provisions of the act. If you are not ready we will postpone it until you are.

I do not expect that all the explanations to-day will be fully understood, but we will hereafter answer all questions you may ask about them.

After fully explaining the act, the chairman ended by saying: As you probably wish to talk over many matters among yourselves, we will adjourn, and hope that you will be ready to meet us again at 9 o'clock to-morrow morning. Should anything occur to prevent our meeting at that hour, we wish you would let us know so that we shall not be disappointed.

Council then adjourned.

SECOND COUNCIL AT LEECH LAKE

AUGUST 9, 1889.

The council was held out of doors, there being no room large enough

STURGEON MAN. My friends, I wish to say a few words to you. I shall tell you what the feelings of the Pillagers are when they meet you. As soon as the Pillagers had made up their minds what to do, I took some of my money and I went and called upon you. It is not my purpose to charge the Pillagers anything for my services, nor for what I expended in their behalf. We wish an Indian to stand by and listen—an Indian interpreter.

Mr. RICE. Name your man.

STURGEON MAN. Those men will select one.

John Bassett (Way-me-te-gozh) and Charles Martin (Maysh-kow-e-gah-bow) took seats in front as interpreters.

STURGEON MAN. You see these boys are full-blooded Indians, and we wish to have them listen to what is said.

Mr. RICE. That is right. The council is now open for business.

PAUL H. BEAULIEU. I think it is expected that the Commission will speak first.

Mr. RICE. In the council yesterday we endeavored to explain to you the nature of the act. If there are any further explanations desired we will give them with pleasure.

We wish to say that the President directed us to take down whatever you may have to communicate to him, and all we may say or you may say will be put in writing and sent direct to your Great Father. We know that there are some matters which will develop as we proceed, upon which you will wish information, and so far as we can we are ready to give it.

NO-DIN-AH-QUUN. I do not wish to say anything definite in what I say. We are waiting for the time when our braves and young men will allow us to proceed to this business—to talk to you. It is our sincere wish that you should once more explain the paper that you have before you, so that every one who is here present may understand. We wish it set forth so plainly that no one can misunderstand. The reason we do not give you an answer at the present time is that we want more light on the subject so we may discuss it intelligently among ourselves. That is why we want the explanations made, and made so explicitly that we will understand. After you get through the explanations we wish that you should tell us that that is all you have to say for the present.

Mr. Rice again explained the act in detail.

MAY-COD-AY-WE-CO NOY-AY. I want to know if that is all the message that you have to give us?

Mr. RICE. The whole of the message was read yesterday. I have only made explanations. We are prepared to give explanations of any other points that may come up as we go along.

MAY-COD-AY-WE-CO-NOY-AY. I am a priest, and I wish to talk to my friends. It is not necessary for me to come forward and shake hands. I wish to have a little rest for to-day.

Mr. RICE (to the interpreter). That is, they wish to adjourn?

Mr. BEAULIEU. Yes, sir.

Mr. RICE. The council is now adjourned until tomorrow morning at 9 o'clock.

THIRD COUNCIL AT LEECH LAKE.

AUGUST 10, 1989.

This council was held in the open air.

Mr. RICE. The President instructed us to treat with you kindly but firmly; to treat with you openly, not secretly. This is referred to to show you that the signature of no Indian will be taken in the woods, behind the houses, or in the dark. Whoever signs this paper must do it openly and before you all. None but a coward would do otherwise, so you need not be afraid: whatever is done must be done here in daylight, where all can see and all can hear. I wish now to have you rest assured upon this subject. We have not come here to disgrace our Great Father or ourselves. Every word you say will be taken down and given to him. We have not come here to beg you to sign, or to bribe you to sign. Your Great Father has made you an offer, and it is optional with you, after you understand its terms, as to whether you accept or not. It makes no difference to us as to whether you do or do not accept it. You are the ones to suffer, not we.

You sent him word three years ago, many of you, that you did not want to leave this place. He listened to you, and has consented to your remaining. I know all about it as the papers are here before me. Your Great Father knows well your condition. He knows how very poor you are: that you have no mill; that there are many other things you are in need of, and that you have not even boards to make a coffin in which to bury the dead. He knows as well as we do that many of your young men can not get work. He knows that you are driven to the woods to dig snake-root to sell, in order to live. You know it; your old men know it; your young men know it, and you know it.

Now, I do not know of anything more that we can do until we hear from you. If you do not see fit to talk, all there is left for us to do is to pack up and leave.

MAY-COD-AY-WE-CO-NOY-AY. I am coming to tell these chiefs something. I shall point out to them the persons whom we wish to appoint our spokesmen, and who will speak to you the words that we put in their mouths. That is what the braves here of the Pillager band say, and our young men also.

Ah-zhow-we-ge-shig will be the first speaker of the chiefs, and Wob-on-a-quay will also speak. That is the plan adopted by all the braves present. That is the organization as now formed. There are a few of the braves that are selected from their bands who will speak after the chiefs have spoken. Mah-je-gah-bow will be the first one to speak after the chiefs, and after him, two young men will speak in behalf of the young men, and after that May-dway-we-nind will speak. The Sturgeon Man will speak. The Sturgeon Man is the one who will speak the minds of the Pillager Indians.

AH-ZHOW-WE-GE-SHIG. You have heard speak the man who was selected to make the speech to you. And as I have been selected as the first speaker, the task is a very difficult one and a complicated one for me to begin. If you feel an anxiety relative to this, it is the same anxiety I feel. Now, if you may be pleased to allow us, we will go and sit around and discuss the matter as to what shall be said. I think that it is just the way you ought to do.

Mr. RICE. The council now stands adjourned until 3 o'clock.

AFTERNOON SESSION.

The council was called to order by the chairman, who stated that the Commission was ready to hear the speakers who had been appointed.

AH-ZHOW-WE-GE-SHIG. I am selected by the chiefs, those that you see before you here, by the braves, and also by the young men of the tribe. The chiefs from Pine Point, on the White Earth Reservation; the chiefs of Cass Lake and Lake Winnebagoish Reservations, and their

braves, have also selected me for the first speaker. They are here as participants, because they are interested in the entry, as it were, of these affairs. In the course of these negotiations you shall hear that they have a perfect right to participate. As I have been selected I shall endeavor to do my duty.

My friend (addressing Mr. Rice), I represent all these people, when I say that I am very much pleased to have heard your talk relative to my ancestors, and the faces you have missed here; all that has been a source of great pleasure to me, that you should be the only one left of the old-time friends.

My friend, the reason we are all happy to have the pleasure of addressing you is that you are aware that these chiefs and these braves were in the past; you have heard of their prowess in war and how they have conducted themselves in dealing with their enemies. For those reasons they feel like men. Everything that they used to take glory in—in warring with their enemies. Everything of that kind, however, is now buried underground, and our record is clean of any crime.

We know that you have been selected by the President of the United States, and also by the law-makers of your country, to come here and conduct these negotiations. So you see, my friend, that you have been selected on the part of the Government, and I have been selected to appear before you on the part of the Indians. This must all be done with great respect towards each other on account of those we represent.

I now wish to say a few words regarding those you were kind enough to refer to in your opening speech and in relation to the road they followed and the land they tracked. We are now in the position in which we can meet each other. That is why the chiefs and braves and young men feel so joyous to-day in having the pleasure of meeting you. My friend, the great pleasure it is to see

you meet us right on our own reservation, to see you present among us, makes us feel as though you were right in the palm of our hand. I state all these matters to give you an inkling of the feeling in our minds. I shall now follow a topic that pertains not only to the chiefs, but to the tribe in general.

My friend, do not entertain the idea that you have one before you who does not understand when anything is said to him. My friend, we do not wish you to follow a track that you can not go over, but neither do we wish to get over you.

My task is ended—that is what the chiefs, the braves, and the young men told me to say. You should consider me as a pioneer who is making a road, or laying one out for the others to follow.

NO-TIN-NAH-QUAH-UM. I have also been selected to lay before you the wishes of these people, the whole of those here.

We have been very much pleased to see you here in our midst. Had it pleased the Master of Life to take you away from the land of the living we should have felt very sorry, and as one man, on account of the business that transpired in the past. I refer to the cessions made by the Pillager band of the Chippewas. You will very well remember the cession. This is the first thing in the minds of these people, and we wish to have an understanding in the matter. We think of it as having never been fairly understood, and we should very much like to have you inform us as to its status at the present time. We do not at all oppose the act you now lay before us for our consideration. Our Great Father is the person who employs you. The Pillagers always receive word from you, in which you say: "My friends, be very careful about your behavior; always do what the Government wishes you to do, which is to be peaceful; never incur enmity. I beg of you as friends to listen to me and do no covert act.

Some day my hands will be let loose so that I can help you." That is the word you sent us, and that is the very reason that the Pillager bands are so pleased to see you, and why they respect you—for the kindness you have shown, and for the words I have repeated.

The men you see here are in poverty, in extreme poverty. That poverty began at the time of the first cession you obtained from them. You are cognizant of all the cessions we have made, and we wish that while you are here you should try to redress any wrong committed relative to the obtaining of those cessions. The Long Prairie is the piece of land that I refer to, the river country. That is a piece of land that you borrowed from my forefathers, and the amount of money that we were to receive relative to that. We wish you to take that into consideration and see if you can not redress it.

Another thing that we wish you to strictly bear in mind is, that the Government of the United States has caused dams to be built, which have overflowed everything here that we had as a dependence for subsistence. They have destroyed all that without ever offering compensation for it. These people are all in accord in this matter. They wish to have an understanding about the Long Prairie matter, and also about the reservoir dams established, and they wish to hear from you what can be relative to that. If you can give them an encouraging answer in any of these back matters, we shall not be unfavorable to this arrangement about to be made and which lies before you.

The amount of money that would accrue if justice was done to us, and the money paid to all these families before you here, would be a great source of revenue to them. It would help alleviate their poverty and be a source of help to these young men, to these old men, and the women and the orphans. That is the nature of our negotiations to-day. The only stumbling block there is to the arrangement you now bring and lay before us is the adjustment of those old dues which now belong to us. It was said to us,

"The money shall be placed in your hands and it will help to relieve your wants." That was only a matter of speech; the thing was never carried into effect. It never came to pass.

An arrangement was made a few years ago whereby the Indians were to be well supplied with agricultural implements. I was very much elated when I heard of it; but when I saw the fulfillment of the promise, what did I see but a log-chain laid before me, which was to go around for one whole band. And then there was a yoke there also. When I looked at the yoke I thought to myself that I would not have sent a yoke without something to put under it. Come to find out, it was sent only for me to look at, and I never found out who the yoke was used on. If they had only said to me that they brought the yoke for the purpose of putting it on me and yoking me with it I should have kept it as a memento to show you this very day.

I have referred to all these back matters because when this act is now read to me, having been treated as I have—and it is no exaggeration as I have stated it—I am afraid of getting my foot into the trap again; so that I can not be too careful how I make promises hereafter.

WOB-ON-A-QUAY. My friend, now that I am about to talk to you, remember that my ancestors were your friends and what my ancestors thought of you. That is just the way that I think of you; I think of you as my greatest friend. My friend, the question that I wish to ask of you is, Here is an arrangement that you have left unsettled; why should you wish to tread over the arrangement and place a new one before it? My friend, there is a big lot of country, a big tract that you borrowed from me; I wish you to make that loan good. My friend, I do not understand the act. Do you not know that everything which grows under our feet springs anew every year? It does. There is something that is buried away underneath that ought to be taken up before beginning again.

I am old and tired, but I will depend upon my stomach feeling a little better after the big hunter (Commissioner Whiting) has shot something.

Mr. RICE. Yesterday I walked up to the old post to see the graves of my old friends, Flat Mouth and George Bonga and others, and to see again the ground upon which the first treaty was made. Sometimes in our dreams events that occurred years ago pass vividly before us. While standing there I fancied that I was again a young man, and all that happened there forty years ago this month flitted distinctly through my mind. There are some of you now before me who were present then; then you were the young men. You will well remember the words I at that time used. I said that you were not selling the land; that the price paid was inadequate. So, you see, the words of your second speaker were true.

The Great Father wanted that land for the Menomones. The Menomones in early days used to come up a few at a time and hunt and trap in your country. They were friends of yours. I was at that time merely the messenger of your Great Father. You will see to-day that it was written in the treaty that the land was to be held for Indian purposes. It was given to the Menomones. Your Great Father was sincere in it. It was expected that the Menomones would remove there, but they were told by their friends in Wisconsin that owing to the war between you and the Sioux it would be dangerous for them to do so; that they would be between two fires. After considering the matter for several years they finally concluded they would not come, but would take a smaller piece of land and remain in Wisconsin.

There came, soon after, a change of administration, and the matter was forgotten, was laid aside. You did not say anything about it. No one seemed to take any interest in it, and several years ago, at the request of Chief Flat Mouth, I wrote the facts and sent them here, that you might always have something to show what the

transaction really was. You called the subject up three years ago, before the commissioners acting at that time, and I was in hopes that the matter would be thoroughly sifted, but although I see that you allude to it in their report, they did not seem to understand the subject. But the paper I gave you was printed. It is now on file with the public documents in Washington. While I felt very sorry that the transaction terminated as it did, and was disappointed about it, I never felt ashamed, because I never told you an untruth. I have, however, lived in hopes that the matter would be settled to your entire satisfaction, and I believe that the day is not now far distant when it will be. But it stands in the same position as the old balances due to the Chippewas of the Mississippi, and it required a great deal of explanation there to make them understand the true state of affairs. At the negotiations three years ago they paid the amount to be paid for the damages caused by the reservoirs.

In looking back to the distant past it was seen that the Chippewas of the country were once one people, that you fought the Sioux from day to day, that you were a brave people, a people to be feared, and that this vast country, from Lake Superior to the Red River of the North, was taken by you from your enemies, and when I first came among you much of this region was covered with the bones of the dead. In those days whenever one band was in danger or in trouble the others were called upon, and you all helped each other. It was by your common efforts that you conquered and retained this country, and the Great Council has thought that you should all participate in the benefits when it should be sold. Those are the subjects that occupied the attention of the law-makers. The other matters were not even considered. They thought them of too small importance, and it was not the proper business of those who originated this measure to first examine into those details. So these matters were never brought as to the attention of your Great Father, but he told us in the instructions to listen attentively to every

complaint you might make, and to everything you might say, and put all down in writing and send it to him.

I am very glad to have heard what you have said in regard to those matters. I have never felt at ease—I have never thought of it that it did not make me unhappy that the old matter, in which I was the instrument of the Government, had not been closed to your satisfaction. When they commenced building the reservoirs I had that in my mind, and I wrote constantly to your people to keep quiet and to bear with the ills upon you in hopes that something would occur by which we could go back and settle up the old matters together with the new. Many of my letters are now among you; none of them are private, and they all speak in the same tone. But, my friends, the truth is this: You have been so poor that your entire attention has been given to procuring food enough to supply your daily wants, so you have not had time to give to these great questions; consequently, you have neglected them.

We would not be unwilling to make this a part of the treaty if we could; but should we do so it must go back through that long, long road—through both branches of Congress, through the Interior Department, and then back to the President, after which appropriations would have to be made, which might consume a year or two.

We have no advice to give in regard to this. We have stated to you the plain truth, the facts as they exist, and it is for your better judgment to decide what to do.

In regard to the reservoirs, you know very well that I at once wrote to Washington and did everything in my power to see nothing should be done until a satisfactory arrangement with you had been made. But in the making of public improvements no one can stop the Great Father. Only a few years ago your Great Father wished to cut a canal through the point of land at the west end of Lake Superior, at the outlet of the St. Louis

River. The whole State of Wisconsin objected because it would throw the course of that river over to this side. They took it to the highest court in the world, the Supreme Court of the United States, and that court sustained the President. It was so with the Northern Pacific Railroad. He and the Great Council determined to build a railroad to the Pacific. They ran it through the lands of the whites and through the lands of the Indians, and there was nothing which could stop it. Now, that was the case with the reservoirs. It was considered a national work, and it was determined that they should be built. All this, however, has not lessened your claim to damages, and you are just as much entitled to the amount as you would have been had you made an arrangement before the work was done. This is so plain a case I can not but think there has been some mistake or some misunderstanding or you would have been paid long ago.

I believe that it is now your wish that we should adjourn until Monday. You may, meantime, think of something that you wish to ask—your chiefs, braves, or young men—and we will patiently listen to anything that you may have to say. We wish to go away leaving you all satisfied and in a better frame of mind than we found you. When you act together your action is more effective. When we get a paper from you and know it comes from all we feel encouraged to work. All you now have to do is to respect the opinions of each other. Consult together freely, like men, and while you may differ at first you will probably agree in the end. I now pronounce the council adjourned until Monday morning at 9 o'clock.

FOURTH COUNCIL AT LEECH LAKE,

AUGUST 12, 1889.

This council was also held in the open air.

Mr. RICE. The persons you have selected to speak this morning will now be heard.

KAY-ME-WUN-USH. You have, I suppose, been informed that it is hard work for me to speak this morning. I have a few questions to ask. There were some questions asked of you yesterday. There is something different that I wish to ask you this morning.

About the cessions of which we spoke, I do not wish to refer to that. I wish to begin the subject of the reservoir dams established which have caused us so much damage. My words will be few, as there are others sitting here who will speak on the subject. We wish the commission to understand distinctly that that is the matter we wish to impress upon them, as it is doing us an enormous amount of damage. It can not be put plainer than this, which is as we understand it: There is something grows there by nature which is put in my hand. The white man takes that morsel put there for me, from my mouth. The reservoir built there has taken away my subsistence. It has created not only hard feeling, but hardships also. You [Mr. Rice] have written us to be very careful not to injure any one, or any of our property—to respect that dam property. We have done so, but we have, nevertheless, suffered from that cause. The respect which the Pillager bands owe you is the cause of our not saying anything about the dams; that is why we were not troublesome.

There is another thing that we wish to ask you. In the treaty ratified in 1855 (article 3) the old men made a stipulation in which there was a sum of money named. [Meaning the utility fund of \$4,000.]

And the Mississippi money that was put on one pile; that was used by the Chippewas of the Mississippi. We never used a cent of it.

There is another thing we wish to mention for the consideration of the honorable commissioners; it is this: That the Government of the United States, under solemn treaty, promised to pay the chiefs for their services, a surplus that came out of the annuity fund.

(This refers to the treaty proclaimed March 20, 1865, article 4.)

I do not utter these words frivolously, but wish that the greatest consideration should be paid to them. It is a matter of great interest to us; and we present it because we respect you and know that you are an honest worker for us; because you pity us, and because of the position you occupy as a representative of the Government. This is all I have to say. I will leave the matter to be discussed further by the braves and young men.

MAY-COD-AY-WE-CO-NOY-AY. I wish to say, in behalf of the band, what I was told. A man will speak who will represent the wishes of the whole tribe. We are of one mind this morning, and whatever he says will be for us all.

SONG-GE-GE-SHIG. I have an apology to make, as I am unprepared with my remarks, except in a general way, not thinking that they would call upon me. My subject will be a different one. It is the subject that you are discussing in all the Indian villages. You are aware there is such a thing as fables. Even fables, which are mythological in character, are never disputed if there is any sense in them. Even fables are listened to attentively, let alone such a matter of great importance as this.

We have great faith in the person that sends you here, and do not dispute a single word of what you utter in his name. We wish we knew positively that it comes from our Great Father's heart, what you have promulgated for the benefit of all these Indians here. My friend, we are very sorry that you should have forgotten such a momentous thing as these back arrangements, as, if they had been all settled, there would have been no necessity of discussing this at all, but we could have disposed of this new arrangement that you wish us to enter into.

This work that you are taking along from place to place with you, you can not change or modify. If it was possible I should follow (accept) it. I want to impress you with the idea that these people are all of one mind. If they make up their minds to accept the propositions they will

do so as a unit, and if they conclude not to accept it, it will as a unit be rejected. I am speaking to you so that if you do not see me over there you will know I have done what I was hired to do. I am one of the Cass Lake chiefs, but I am living here.

MAH-GE-GAH-BOW. I have been selected by the chiefs and the braves have also selected me, and the young men also selected me, our women and children selected me. My friend, it is to lay before you what engrosses our whole mind that I address you.

We heard our fathers state under what conditions they had ceded the land to you that we referred to the other day, and it is our wish that our friend should state to us what he stated to his old friends, our fathers. It was you to whom they gave the land. At the time that Flat Mouth went to Washington they laid the matter in your hands to help them make the cessions. We, the descendants of our fathers who made all those negotiations, have always said that the first time we see the friend of our fathers we shall lay before him these matters, so that he can explain to us all about it, and as to which we are so anxious. So you see, my friend, that you are the person who made this arrangement by which we consented to part with that land, and you know all about it. It was at that time, in 1855, that you drafted that treaty, and the mixed-blood now standing by you was the one who then interpreted.

There was nothing to mar our happiness here. There was no reservoir dams, and everything which is now an obstacle to our subsistence was then clear before us. That is what is putting us in extreme poverty. They think it ought to be redressed. They discuss it day after day and they are right in discussing it. Our idea, my friends, is to fix and conclude all the past relations between us. We do not wish to cover up out of sight that old matter, but to keep it in view; and after it has been fixed, then we are ready to make a new arrangement with our Great Father.

MAY-DWAY-WE-NIND. My friends, I shall now tell you the ideas of the Pillagers who have with one accord selected me to speak to you, and whatever I shall tell you you shall accept as the thoughts of all the Pillagers here. When you were selected your appointment was made strong by the person you represent, the Great Father. You are taking this message all over the country and you are bringing it to us here. The purpose is that you should carry out the intentions of the Government; that is what you are sent for. We know that in traveling you want to leave nothing behind unfinished, and we know that that is the way your instructions read. And it is a very happy thought that it should be so. The Pillagers here, with one accord, wish that the object of your mission should be fulfilled, and that the promises of the Government should be faithfully carried out. I have told you what the promises of the Government are, and I shall now tell you what our wishes are.

This matter laid before you has always been agitated in the Pillager mind during the past six years, and this is what they wish to get through before doing anything else. Six years ago we arrived at a conclusion and resolved we would adhere to it. What you have in your minds and what we have do not conflict at all, they only cross each other instead of meeting. The Pillagers have resolved that as long as these back matters remain unsettled they will stop where they are. That is where it shall stop. We have all put our names on the papers. The Indians at Cass Lake, Lake Winnebagoishish, the Indians at Pine Point, and we, have signed an agreement that we shall be a unit in the arrangement we shall arrive at. We wish that what we have asked you shall be laid before our Great Father and adjudicated before anything else takes place. We wish our business to be attended to first because it is momentous. At the present time we have extreme good feelings towards each other; so that your arrangements will be passed by, and ours will go on to Washington.

The first thing in the minds of the Pillagers is the land that you borrowed from us; this is what we are always talking about; and then the stipulations of the treaty that has been made with us; the first cession made to you, that remains in some degree unfulfilled. And the damages by the reservoirs, that is another thing.

Another thing is, that we wish you to understand that whoever touches the pen here will touch the pen under water. That is the conclusion we have arrived at. We do not wish to hurt each other, but we wish to have our ideas enforced, so that any one who shall touch the pen clandestinely we will try by our laws and punish.

STURGEON MAN (after addressing the Indians). It is three years since I took a document and placed it in the hands of our friend here, and he told me that those high in position should consider it. Mr. Sabin is the man referred to. He was pointed out to us, and we were told to lay the matter before him and that he would attend to it for us. That man told us how to proceed. Then we were told, "You should manage this matter in a proper way; if you employ any one, you have a right to pay him." We did then employ a person who knew very well how to write. We employed J. B. Bottineau for that purpose. After Bottineau had written the article for us, he came and submitted it to us. That article contained all our grievances which we wished to submit the Government. We told Bottineau that if he achieved what we so much wished, when we received the money we would pay him \$5,000 out of the fund. So you see that Bottineau was acting for us in all our business. We were also very anxious that you should be with us until all the matters were adjusted. It is very true that we have always looked to you in trouble, and you have never failed to give us succor. But you see it is impossible for us to ignore Bottineau. We have made bargain with him, so that he can not be thrown aside. It is impossible to throw off a person after you have hired him as an attorney. It is just

like you hiring this secretary; we have no business to say that you must not hire him, and that is the way we feel about the man we have hired.

At the time, my friend, that you borrowed that land from the Pillagers, who were our fathers? It may be that I was not born then, but I have heard all about it. It was this year forty-two years ago since you entered into that agreement with our fathers. That is the first thing.

It is going on thirty-five years that the other cession was made, in which the old men here ceded the other land to the Government. The arrangement made for thirty years is now passed by, and that was the number of years for which the Pillagers were to receive payment for the land they ceded.

Twenty-two years ago there was an arrangement made by which the Pillagers should receive pay, extending their annuities ten years longer than the time stipulated in the treaty. Those two men who were there at Washington at the time stated that the land on the other side here [indicating] was given back to the Pillager bands.

At the time of the raid which the Mississippi Indians got up against the Government there was a sum of money, \$16,000, which was taken from us and paid on account of the depredations committed in that raid, when we had nothing to do with it. It was none of our getting up; only a few of our men as individuals joined in; yet we had to pay that claim. It was none of our business at all to pay it. There are these men before you now who protested against joining the Mississippi Indians when they were ready to commit overt acts against the Government. At the time the White Earth Reservation was set aside, and the Mississippi Indians removed there, there was a sum of \$25,000 appropriated to pay for it, giving the Otter Tail Pillagers a right on the White Earth Reservation. We think that that land which was paid for at that time belongs to the Otter Tail Indians. We wish to

have the Otter Tail Indians here with us to participate in interest with whatever might accrue to the Pillager Indians. We wish them to stand with us in all business matters. The Otter Tail Indians ought to have land separate for themselves.

At the time of the cession, in 1855, the chiefs who made this cession did not do it for the purpose of excluding the Otter Tails. If they had only mentioned the matter to you, my friend [meaning Mr. Rice], you would have told them what to do.

We think that as our friend the agent is now here, it will be a happy moment to refer to the agency matters which have troubled us in the past.

My friend [addressing Mr. Rice], you did not think at the time that you gave us this paper I now hand you that you should ever be a commissioner to come among us. It was written nine years ago for the purpose of aiding the redress of our grievances. Please read this paper, which I suppose you gave us that in case anything should happen to you the Pillagers could exhibit this to show how the matter really stood. We wish to keep that as a memento.

The paper handed Mr. Rice read as follows:

ST. PAUL, *October 4, 1880.*

The following statement is made at the request of Flat Mouth, chief of the Pillager Indians.

In 1847, when the Pillager Indians, by treaty, sold to the United States the Leaf River country, for a nominal consideration, it was understood that the country ceded had been selected for the future residence of the Menomnie Indians, who were friendly to the Chippewas, and the country would remain Indian Territory. Not only this, but the Menomonies would form a barrier between the Pillager and Sioux Indians, who had for centuries been

at war. The old men thought by having the region thus occupied peace would follow; hence their consent to yield to the request of the Government.

They were sadly disappointed, for after the ratification of the treaty, other provisions were made for the Menomones. The Leaf River country was thrown open, to settlement, the game driven out, and the Pillagers exposed to all the evils that beset a frontier border. The country ceded contains about 1,000,000 acres; the price paid about 1½ cents per acre. The sale was positive. The Pillagers have no legal claim to the land, but morally have a claim upon the Government, which claim I hope may at some suitable time be acknowledged by giving to this poor band such aid as will improve its condition.

HENRY M. RICE,
One of the Commissioners.

Mr. RICE. In regard to the land that you loaned your Great Father forty-two years ago, all that you have said is true. It was understood between Flat Mouth and myself that that land was not to be used by the whites, but that it was for the use of the Menomones. In 1855, when Flat Mouth went to Washington and made the last treaty, the question had not been decided—that the Great Father would sell the land to the whites—consequently nothing to prevent it was done. Time passed on and the matter seemed forgotten. As I was the only one living who knew anything about it, and for fear that I might be taken away, that paper which has just been handed to me was given to Flat Mouth. And I believe I am the only white man living whose hand touched the pen to the paper authorizing the cession. The commissioner who was with me died long ago, and I do not know that there is a witness connected with that paper who is now living. So I am left alone to receive all the blame that attaches to it, but I know that I am in the hands of my friends.

It was not long after Flat Mouth was in Washington that there came a change in the administration, and then, or soon after, came the great war, when everything else was laid aside, and it has taken nearly all the time since to settle questions that were raised by the war; paying the great debt incurred, taking care of the four million blacks who were thrown upon our hands; of the widows and orphans of the soldiers killed in battle, and of the soldiers who were wounded during the war.

You can also imagine the business your Great Father had on hand when a million men were under arms and every ship we had was armed and at sea. It is as if the storm was but just over and the ship had just arrived safely at anchor. These matters, with the other pressing business of the Government, have taken up all its time, and it is no surprise that many matters of small importance to your Great Father, but of great importance to you, should have been laid aside or overlooked.

In regard to the reservoirs, your Great Father has not said that he did not owe you damages. He has sent two commissioners here to consult with you and ascertain the amount that shall be paid. The commission of three years ago also took the matter into consideration.

It was said by one of your speakers that you wished us to do nothing here, but to pass on to the next band, and it may be better to make no arrangement here, but to go home, because it would not look well if we left behind us a stream unbridged. In regard to many other matters, some of which Sturgeon Man has referred to, as to the non-fulfillment of the treaties, we can not give you an answer without first examining into the question. But these are matters which are properly brought before your agent, who has the books showing the money paid and the cattle furnished. I know you brought these matters before your former agents, and that, as it were, your words were blown away by the wind. The reason was

that they did not understand business matters, but you now have an agent who does, and who will see justice done.

We have learned since coming here that in the treaty ratified in 1865 was a provision that 200 acres of new land should be plowed and fenced for you, but instead of fulfilling that promise your then agent plowed your old land and took your money to pay for it, but did not plow an acre of new land.

In regard to the reservoirs, it has not been considered good policy to pay you the damages until it was known where you were to have homes. The sum agreed upon three years ago—\$100,000—was so large that the Government did not think it wise to distribute it in one payment, as it would soon be gone. It could not be expended here in breaking land or building houses, because if the other treaty was ratified the improvements would be lost. You can see very readily that the Great Father could do nothing while the other treaty was pending.

As you know, there are many who wish to have the treaty of three years ago ratified, and in that case the only home you would have would be White Earth. The Great Council has not acted upon that treaty, as it went to a committee, and there it lies. After your protests against it were received in Washington the Great Council devised the offer we bring you, hoping you would like it better. As I explained to you the other day how the two differ, I presume you understand it. If you had kept quiet here and expressed yourselves as satisfied with the former treaty, it might have been ratified. While the Indians of other reservations also opposed it, none did so strongly as your band, and you were the first to make your wishes known at Washington. So far as they knew your wishes, your friends have endeavored to carry them out by providing in this new agreement that you may remain here in peace or go to White Earth, as you prefer.

We shall do nothing to break the chain that binds you together in your views of this proposition, for there is nothing looks so badly as people, either whites or Indians, who are all tails and no heads. We have opened our hearts to you, leaving the result with you, and your decision will be final. We have our opinion as to what is best, but no two or three men can decide for a band. The interests at stake are your interests, not ours, and we hope that whatever you do will be for the best. We have made no promises, and given you no advice save to keep together.

STURGEON MAN. You will now hear from me, not only my voice but that of the whole people. My friends, it is now three years since we began talking of this matter, and we have done so even up to this day, and there are many days in three years. We think the Great Father is owing us too much, and you know very well there is something owing us from the Government. We do not wish to leave this Leech Lake Reservation, and we tell you this in good faith.

We do not wish our Great Father to run us into debt on account of anything relating to our reservation. We know that any one who came to us with the money in his hand, saying, "Here is the value of the land," would simply be coveting the pines on the reservation. If he wanted a certain quantity of pine and had the money, he could buy it of us. If we should negotiate with you in accordance with your expectations and accept the terms of the act, we should have to wait a long time—perhaps fifty years—when maybe all the past dues would be covered up and could not be unearthed again. [Addressing the Indians.] The braves and the young men all like the chiefs, and do not wish that any of the chiefs should do otherwise than they do. These are my ideas, and I know they are yours. If we should be at this a thousand days, I should not say different than I do now.

[Turning to the Indian agent.] The people will talk to you about the agency matters, maybe this afternoon. I don't know what time. I am very much pleased with what Mr. Rice says relative to the knowledge you possess.

Mr. RICE. It is dinner time, and we have nothing more to say. It is for you to say whether you wish to see us again. If so, you must name the hour.

MAH-GE-GAH-BOW. If we think of anything else we will let you know this afternoon.

Mr. RICE. I suppose that if you do not think of anything else we will prepare to go home.

Indians grunt assent.

MAH-GE-GAH-BOW. At what time will you meet us?

Mr. RICE. It is for you to say.

MAH-GE-GAH-BOW. Three o'clock.

Mr. RICE. The council stands adjourned until 3 o'clock.

AFTERNOON SESSION.

NOW-WE-GE-SHIG (addressing Mr. Rice). My friend, we have met again. I have heard that since coming here you have been presented with a magnificent beaded sack, and a beaded sack never goes without a pipe. [Handing Mr. Rice a handsome inlaid stone pipe.]

Mr. RICE. Thank you.

MAY-DWAY-WE-NIND. I wish to state to you what the honorable Commissioner of Indian affairs stated when I paid a visit to Washington winter before last. I do this on account of the White Earth people, who even at this day are talking of this matter. I asked the Commissioner about the matter, and he told me that the Pillagers here and the Indians of Cass Lake and Lake Winnebagoish owned that in common [pointing to the west]. The hon-

orable Commissioner had a book in his hand, and, while talking, he stretched out papers referring to this land which was owned in common. He told me that it was seventeen years ago that that paper was made operative. When I asked the Commissioner who made that paper effective, he replied that it was the President of the United States who had done so, and that there was no power on earth who could annul that paper. That is all I have to say.

STURGEON MAN. My friend, I have a few words more relative to what all the Indians wish you to do for them. Whatever you say to us, or we say to you, that man puts down on paper, and it is our wish that you may be pleased to have a copy of that left here with us, a copy of the journal.

My friend, for fifteen years past you have always told us to be quiet, to live in peace and harmony, and we have listened to your words. You told us that all which troubles and aggravates and is a source of trouble to us will some of these days be redressed. You told us, my friend, that your hands were tied, but that they would some time be let loose, when you could do something for your friends, the Pillagers. Now that we see that your hands are not tied, we expect you to make use of the executive power of the Government. We always have thought that if any one came and tried to scold us we would look to you. This has been the drift of our conversation for two days past we; we have shown the respect for and the confidence we have in you. We have thought that the only proper way was to have this matter that troubles us go back to the great lawmakers in Congress. We thought so because of your counsel that we should remain quiet and live in peace and harmony, and we thought we would have a redress there. We are now very much pleased that you are in power, so we can talk with you. We know very well, our friend, that every-

body in the country knows you by reputation and talks always very highly of you; and it is so to-day, and you are thought of a good deal above other men.

My friend, this is not your personal affair, your asking for your land; it is something started in Congress, by which you were appointed.

(Addressing the agent.) I have a few words to say to you, and hope you will listen. Of course, it is not your fault if you can not redress our wrongs when we wish to go to Washington about the treaty of thirty-five years ago. The lawmakers would perhaps be against it if they had set the sum aside for that purpose. There is a man over there [pointing to the agency office] who has charge at the present time of the annuities.

Commissioner WHITING. That is a matter for the agent to attend to.

Agent SHULER. I will have a meeting with you after the council is over on this subject.

STURGEON MAN. The way we are treated here everything goes wrong.

Mr. RICE. That may all be, but the place to talk to the agent is in his office, not here. We are here on business.

Agent SHULER. I wil' see you before I go away.

STURGEON MAN. That is what ought to have been said before. We understood that this should be said to the agent in the presence of the commissioners. That is all we have to say.

Mr. RICE. Something has been said here about your employing an attorney, and I wish to say that you have a right to employ one to write letters for you; but whoever employs him must pay him, unless he will work for nothing. If one of you commits a crime and gets in prison,

you have a right to employ an attorney to appear in court. If you should employ one and send him to Washington, to Congress, he would not be permitted inside the doors. If you should employ an attorney to speak to us here, we would not listen to him. If you should employ an attorney to speak to the agent, he would not listen to him. The employment of an attorney by two or three or half a dozen does not bind the tribe, as they can not take your money to pay him without your full consent and the indorsement of the agent. I have acted as attorney for Indians when they were in St. Paul, but I never charged them for it. I mention this that you may not misunderstand the matter.

I heard something said this morning about selling your pine to white men who might come to you for the purpose. I wish to say to you that you can not sell even a dead tree that has blown down. If a white man should be fool enough to pay you money for a tree, the first time he put an ax into it he would be seized, taken to St. Paul, and punished. A few years ago a foolish white man purchased some pine on the Lake of the Woods, and the moment he went there he was arrested, taken down to St. Paul, and imprisoned, and begged assistance of me.

Another thing regarding your pines. The white man has no right to set fire to his own house, and if he does he is punished. Your Great Father will not see his children among the white people destroy their property by fire. He does not permit it, and he will not permit the burning of your pines. It is the property which the Great Spirit put here for the purposes of man, and it is not going to be left to destruction.

I heard here this morning something that sounded like a threat. I have to tell you that times have changed. Only a few years ago an Indian was permitted to kill an Indian, and if one did so it was settled among yourselves. But

now, if an Indian kills an Indian he is just as sure to be hung as if he killed a white man.

The day before we reached Red Lake one Indian there killed another. He claimed it was an accident, and perhaps it was, but the agent seized him and he now languishes in prison in St. Paul. Congress has passed laws upon this subject, as well as upon others, of which you have not heard.

As we have said to you, we hope you will be united, and we still hope so, but we want to say to you that any man who wishes to sign this paper will have permission to do so. We shall present it, and if any one signs, it will be in broad daylight, and he will not be deterred from it.

If you have any good reason for not signing the paper, any reason that should receive consideration, we will listen and take your words to your Great Father, but we will not carry any trivial message. We are not men of that kind and were not sent for that purpose. I was in hopes it would not be necessary to say these things to you, but we have to be plain with you, whether or not it is acceptable, for we know that in the end it will be for your good.

You have much to say about the lending of land to your Great Father, but I have not heard a word about his lending you \$90,000 a year, year after year, to enable you to avoid digging snake-root in order to live.

Now, if any of you have good reasons for not signing, we will hear them, and if any wish to sign, they may do so, but no threats can be used or put in force here.

MAY-COD-AY-WE-CO-NOY-AY. My friends, I wish to tell you how we look upon your message here. My friends, it pleased the Pillagers when they heard that you had been selected to sit here and have the Pillagers standing before you. This was because of your past transactions with the Pillagers that they were so elated when they heard of your

appointment. You can see, my friends, what pains we took to receive you on your arrival, and the reception we gave you, which was done in the fullness of our hearts.

The idea of the Pillagers to-day is that they do not want to step over the old arrangements before they enter upon another. We thought you would lay before us everything pertaining to those matters. If you had done as you ought to have done relative to the Pillagers, they would not have been compelled to beg for a living to-day. I have told you why the Pillagers were so glad to see you, and they are still glad to see you. The people here were not so much pleased with the act that you read and explained to them. It was not that; it was the back arrangement that they were so much pleased about.

My friends, do you feel badly because we do not accept the propositions that you have extended to us. My friends, your friends here salute you from the bottom of their hearts, as you can see by the demonstration made when you arrived.

STURGEON MAN. I have a few words to say to you. The words you have spoken to the Pillagers here have been well listened to by your friends and those who call you friends. We do not say "friends" for the sound only, but we mean what we say.

If my own brother should come to me and wish me to enter into an arrangement, and I should not comply with his request, I should not feel insulted. Even if he should cut my body into pieces I should not resent it at all. I am interpreting the ideas of the people here, and I would not, under any circumstances, be guilty of disrespect towards you, whatever words may come from you. I am told, if any one talks hard to you, do not talk back in the same spirit; that is what they told me. The Pillagers told me, "Just think of God whenever your temper rises, and it will not rise." "If you should meet with reverses in

making your arrangements, do not let that irritate you at all; if you should be knocked down in trying to maintain your rights, do not resent it." If they keep putting these words into my mouth, I have to utter them, whatever the consequences may be. I am chosen by them to speak, I must do so.

Kay-gway-je-way-be-nung then addressed the Indians, telling them to watch any one who was guilty of touching the pen, and to stop him, and that he still occupied that attitude.

Mr. RICE. You seem to be laboring under a false impression, which I wish to correct. We do not expect any here will say anything to offend us; we certainly will not say anything to offend you. We have heard what you have said about the old matters and have put it all down.

What we expect is, that if there is anything in this paper we have brought to you which you do not like you will say so. This paper says that you may remain here. If you do not want to remain here, we wish you to say so. If you do not wish your Great Father to lend you money, say so. If you do not wish the other Indians to put in what they have against yours, say so. As we have talked so long about the other matters, we desire to speak of this a little, and if there is any alteration you wish in this arrangement we want you to mention it, so we can send your statements back to the Great Father. Three years ago he spent a great deal of money in sending a commission here, and it seems that you did not like the propositions then made. He now sends another with other propositions, and instead of pointing out in it what you do not like, you simply say that you will not sign it, which is no reason.

You speak of sending a delegation to Washington. There is a law to prevent it. Only last winter one of the biggest chiefs of the Sioux went to Washington. They would not

listen to him and he had to beg money to get home with. Now, as your friends, we would advise you to speak of the propositions sent you. If there is anything wrong, mention it, that we may send your objections to the Great Father.

We know very well that he thought that he was sending something which would be welcome. We certainly would not have brought it had we thought it would not be acceptable to you. I hope you have considered the subject well, and for your sakes you will send some message if you have any. I do not say that he will send another commissioner. I do not say what he will do, or will not do, but I advise you to send something that he may read and see that it came from men of sense.

NO-DIN-AH-QUAH-UM. I wish to talk to the Indians, and wish notes to be taken of what I say. Pillagers and men of this place, it is to get you to act as a unit and in your interest that I speak in your behalf. Do not lay upon me the imputation that the white man has turned me to his side on account of the words I may utter. I shall talk of the cause that has been rankling in our bosoms for a long while and has caused many troublesome thoughts.

You all know that we all hate the prairie country, because it is cold. It has been my idea that you should have considered this matter thoroughly and, instead of going to the prairie, to arrange in some way so that we can be permanently located here. The main idea that actuates every man here is to remain at the place of his nativity. That is the idea that is foremost, and which ought to be considered, so we will not make a mistake.

This matter is now within your grasp, and you can achieve it yourselves. You can do more; you can ask these commissioners if they will invite our fellow-Indians living on this reservation with us—those living in the

woods—to reside on this reservation and make it a common resort for us here.

That is all I have to say relative to the signing, if that is what you call signing. For my part, I am against having anything done clandestinely. If I touch the pen, I will do so because I think I understand what I am doing it for. I am against having anything done in secret. If it is my conviction that I am right, I shall touch the pen under that conviction.

My heart hangs just like the heart of my nephew, Sturgeon Man, as shown by his speech here. I am afraid of the Pillagers; I am afraid of them because I know what they are and what their impulses may lead them to. I have been a young man, and I have worked hard against the impulses of the young men. When I look at the number of men here, and the women with their children over there, I remember that it is their interest which we should consider. We ought to advise with each other as to what is best. I do not remember exactly the number of years, but it seems a long number of years that support was promised, and that is what we ought to discuss and understand intelligently among each other. My heart hangs in this way. Whenever I have a morsel to eat it is the greatest wish of my life that I could have every one partake of that morsel with me. This is the feeling which actuates me in expressing myself in this way.

HAH-GE-GAH-BOW. I was selected also to speak for the people. When the whites came here and visited us they also appointed me as speaker. You can see this man sitting here, the friend of our fathers (Mr. Rice). The value of the land that was ceded by our fathers ought to have been a sufficiency to have supported us all. It has pleased the Master of Life that we should enjoy everything pertaining to this lake upon which we are placed. When he put us here he put also the wherewith from which we should get our subsistence. We used to

put a great deal of trust for our subsistence on that lake that they are now spoiling for us. It was the pleasure of the Master of Life that we should get from the waters in this lake what should be our subsistence, and the Master of Life thinks to-day, "I have put in that place what I want my people to enjoy—the fruits and everything that is grown there." You must see yourself that it is all spoilt by the whites. That is the reason that we are compelled to dig snake-root sometimes for subsistence. If it had not been for the action of the whites in stopping up the rivers with the reservoirs we would not be compelled to do that for a subsistence. We thought we had arrived at a time when a settlement for those reservoirs should be made; something of a sufficiency to support us; that is the idea we still entertain. And, my friend, you are the one who told us to keep quiet and live in peace, and that is why we have; but we see that those dams are conquering us. If you had not spoken to us we would have opened all those dams long ago. My friend, I have told you the truth.

KAY-GYAW-JE-WAY-BE-NUNG. My friend I wish to yet say a few more words to you. I wish to tell you how the way you have spoken to us looks to me—about the persons who came here, the commissioners, who got some signatures, those from Washington. That is the very way they went at us—they whipped us with words at the time that they saw they could not effect anything here. I was the one who got up and told them that we did not want and would not receive anything like that. That is the way I expressed myself to you, and we do not wish to have anything that will harm us at all, to befall us.

All that we are contending for is something that will support us, which is why we are in council and debating matters relating to that. We can now see right through you and that you are a white man; that whenever you are talking to Indians you know what weapons to use to

them. We are not scared at all; what do we do at which we should be scared? We do nothing of that kind.

It is not you, who are a white man, that we talk in this way about. It is the Indians, who have a claim against the Government, which owes us something—that is who we are talking about. That is what we say, and we say it all together. There is nothing which would harm the Pillagers so much as that which you now bring to them. It is our property, and it is for us to take care of it. We will *not* give up to the Indian who wishes to sign away our rights to this place. We do not wish to restrain any one who wishes to touch the pen, but we wish to do that to him [making a sweeping motion with his arm] and move him away, so that he can not touch the pen. That is what we have made up our minds to. This is our conclusion, and we do not wish to accept of the propositions you have placed before the Pillagers. My friends, I wish you to think that that is our ultimatum.

STURGEON MAN. The more we talk with the commissioners the more they look as if they wanted to intimidate us; tell them that they may go home.

[So much disturbance was made that the council was broken up. A few minutes later an Indian appeared before the commissioners, saying he wanted to know if they were going to listen to the man who had spoken (Sturgeon Man) and go home, as in that case he would do so also. Mr. Rice replied that the commissioners wished to hear from other parties, and that they who desired to speak would be given an opportunity. An Indian afterwards came forward to show Mr. Rice some papers and letters he had, demonstrating that he was the son of a chief now dead, and requesting a letter from the commissioners to aid in increasing the size of his band. He was promised the desired letter.]

FIFTH COUNCIL AT LEECH LAKE.

AUGUST 13, 1889.

The Indians spent this day in counciling among themselves, but at 5:30 p. m. the commission received a message that they desired to meet its members in council, whereupon the commissioners appeared at the school-house, where the Indians had already assembled.

MR. RICE. In accordance with your request we meet you this evening, and are now ready to hear what you have to say.

MAY-COD-AY-WE-CO-NOY-AY. The words of the man who will speak after me are the words of the Pillagers as a body.

NO-DIN-AH-QUAH-UM (addressing the Indians). After my words yesterday, my friends, I thought we had better discuss this matter well before proceeding further. I thought that my words would have effect. I was extremely surprised that a motion was made to call a council to-day. This was disrespectful to the commissioners.

The results of our consultations are all for the best. I was not empowered to utter the words I used yesterday in the council and objections were made to it. If I made a mistake, of course I owe them an apology. The reason I spoke in the way I did was, that I was afraid our friends here (the commissioners) would take offense at the words uttered yesterday, and I thought it was better to say what I did, even without authority. I was afraid, under the excitement at the time, we would become estranged, and spoke under impulse. It is desired that the speech I made yesterday be not made a part of the record, and it is in accordance with their wishes that I made this demand. I make this request because I think a great deal of our people. That is all I have to say for the present.

There is another man who will speak. I do not know what he intends to say.

Mr. RICE. Whenever a man comes frankly forward and says that he has made a mistake, and has uttered that which he did not intend to because he was under excitement, of course we will take it out of the record. Nothing pleases us so much as plain, straightforward, honest talk.

STURGEON MAN. My friends, I appear to you now as an Indian. [Meaning that he had not assumed paint, feathers, and a blanket.] They have opened the door for me and allowed me to speak again to you. And you know, my friends, that it is the wish of the people here that I should utter these words in their behalf, and that I should tell you their feeling. I wish to say a few words right here. I wish to speak on my own behalf, and that you should see me as I am, all three of you. It is a positive fact that I am selected—I am hired, as it were, to speak to you.

My friends tell me that whenever a man speaks hard to you, do not get cross over the matter—overlook it. That is what I am told to say, and that is the way I am told to act.

My friends, I am told to say to you that the Pillager Indians had no faith in themselves. That they should not detain you very long, before going to our own work, which it is so essential that we should do. They say that we ought not to speak to our friends any more; that we shall tire out our friends. There is a great deal for us to do, and we ought to be attending to that kind of work. They say that they do not wish to have this act of Congress at all; that they do not want to accept the propositions made to them. That is what they told me to say and that is all they told me to say.

MAY-COD-AY-WE-CO-NOY-AY. A mistake was made by the messenger we employed to call this council. If you wish to have anything more to say, we will have our chiefs see you.

Mr. RICE. I hardly think it is for your good to send to the Great Father the only message you have delivered. I think if you have any regard for yourselves, and I know you have, you will send a different message. I think the chiefs should speak. He will ask, "Where are the chiefs?" What shall we say? He will think we made a mistake, and that we did not find our way to the Pillagers. He will ask why you sent to him the messages you forwarded three years ago; what can we say? He sent us the paper you signed, and we have all your names. You said you did not want to go to White Earth. He will ask if you were laughing at him then, or if you are laughing at him now. He will ask if the chiefs are dead? I have looked over the list and find that not one of them has spoken. When he sent us to bring a message to the chiefs, and through them to the young men, he will want to know if we found them.

He has had hard work for years to keep the whites from your reservation. He keeps now at Fort Snelling and in the vicinity hundreds and hundreds of troops to protect you. There is no trouble among the whites. Do you wish him to turn his back upon you? If so, you can probably force him to do it. We are taking back to the Great Father from the Pillagers no message but insults. One man gets up and says that he speaks for the Pillagers. He says he speaks for the chiefs, the headmen, and the young men, and you send through him word to the Great Father that you will throw the first man who touches the pen into the lake. You will say that the man who attempts to touch the pen will be brushed away, and that if it had not been for me you would have destroyed the reservoir dams.

What words are these for us to take to Washington? Threats and insults? Do you know what the consequence will be? Talk about your land—about not parting with your land—you don't know what you are saying; you do not own a foot of land. This land was taken from you

and the British, and the Great Father has never given it back to you, but as a kind father has permitted you to live here as his children. As I told you yesterday, you can not sell a tree and have no control over the reservation. If a white man comes here to trade you can not interfere with him or prevent his remaining, as he has the same right here that you have, for he has the permission of the Government.

You have heard of the trouble that the Mille Lacs are in and have been in for years, because the whites are surrounding them, wanting their land and their pine. To prevent a repetition of those troubles at White Earth, Red Lake, and here, he has sent us this message: To stand between you and the white man, and to give the Indian land which he may hold as the white man holds his. As soon as it can be accomplished, each Indian will have his patent—each man, woman, and child—and then no one can trouble them further. We made this arrangement at White Earth, and they are now out looking up the sugar bush and the hay lands, so each may have some of his own.

He told us to come here and make the same propositions to you, and then to hurry on to Mille Lac and try to give them relief, but, judging from the last news we have received, they may be driven from the reservation before we can get there. You talk of selling this reservation. How much of it do you sell when you have taken out your allotments? You get the most of it yourselves. You will be so little disturbed that you will hardly know that you have parted with any. You will not only remain here, if you wish, but your Great Fathers offers to send you money already appropriated. Is there a man among you who refuses money when offered?

When we have sent the words you have spoken, who will be brave enough to speak on behalf of the Pillagers? When you have thrown away the few friends you have, will you be any stronger than you are now? Where will

you look for friends after treating the Government in the way you propose? Are his, the Great Father's, white children going to take up the fight in your interest as against him? I do not know of a man of sense or influence who will dare to say a word in your behalf hereafter. You have treated him with contempt. You have not even asked a question in regard to the measure that he sends you. He will make inquiry, and he will discover who instigated all this. After all these years I have worked for you, will you refuse the opportunity to better yourselves, now offered? I am so surprised that I do not know what to say. It seems to me that you are asleep, or else there is some evil spirit poisoning your ears. I can say no more. I received word this afternoon that the chiefs wished to meet us at 9 o'clock to-morrow morning. Perhaps you wish to withdraw that request. If so, do it.

O-GE-MAH. No one pushes me forward to say what I am about to. I am at a loss. I have not seen the message you brought here to be discussed. You have been here a great many days. If anybody had come forward and asked you to state what you have brought, we should have understood the whole thing by this time. It would have been a pity, after all this discussion, if we were unable to say that we object to such and such points, and we do not think it is right to decide without discussion. We have had a council to-day of the chiefs and many of the young men. We have discussed this matter fully in all its merits, and we made up our minds it was about time to ask you about the propositions you bring and have some light thrown upon the matter. I have been waiting for this moment. I understood that this moment would come; now it is our turn. Now, remember, my shake of the hand with you is for 9 o'clock to-morrow morning.

Mr. RICE. I feel that light is breaking. There is nothing in that paper that can not be discussed or that we can not explain to you. If there are any points you do not understand, think them over and ask us about them in

the morning—not once, but a dozen times if necessary; we came here to wait patiently.

No-din-ah-quah-um then addressed the Indians.

MAY-DWAY-WE-NIND. I wish to say that the interpreter made a mistake in translating for me yesterday. I did not mean that if a man should sign he would go into the water, but that if a man signed he would sign on the water.

STURGEON MAN. Thet chiefs are ignorant of the paper that you bring here.

Ben Fairbanks had the paper you brought here and that you are now discussing. The paper was read to us by persons who did not understand it very well themselves, so as to give right interpretation. Although many understand how to read, it is difficult to understand the bill thoroughly. We went to the Rev. Clement H. Beaulieu, who is the one who interpreted to us. There were three of us who went and had it read, and we understood the whole thing as it was.

I wish to speak of one thing more. It was understood there were fifteen bands of Indians who will participate in the \$90,000, and the Red Lake Indians brought word that there was \$90,000 to be given to them alone. The Rev. Clement H. Beaulieu listened to them and they said that, and also Ben Fairbanks. The men told the Rev. Clement H. Beaulieu and Ben Fairbanks that they misconstrued the bill relative to the \$90,000. I told them we understood there was fifteen bands to participate in the \$90,000. The old captain of police said there was \$90,000 to be used for the Red Lake Indians alone. The reason we objected to the bill was that \$90,000, used among so many Indians, would make our per capita too small. That is, I suppose, the same bill that you are talking about.

An Otter Tail Pillager, living at Pine Point, then stepped forward and addressed the Indians in a forcible speech,

telling them that his band had gone home because they had crops to look after, if the Leech Lakers had not; that they had not time to remain and take part in their wrangles, and that they accepted in all respects the propositions made by the commissioners, and then addressed the latter as follows:

We wish you to understand that our band will follow the course of the people at White Earth. We have agreed that those who did not receive annuities on the reservation, should not be allowed there. There is a family at our place which has just arrived there and has marked out a good deal of land. They were brought up outside of the reservation, among the whites, and they have taken the land since the agreement was made at White Earth.

We would like to know whether you are going to pay for the land improved under the working clause, and give those who have cultivated ten acres a certificate for forty, and whether you are going to give land to others without the working clause being operated in their cases.

A man there who has made improvements for seven years, has sold them. Is that allowable? The land is all fenced in and opened as a farm. It happens to be a white man who has hold of the land, and his reputation is very bad. It was my son who sold the land and improvements. He is a good worker, and I am not well pleased with his action, after working so long on the land and then selling it to this white man, whose reputation I do not like.

Our Great Father has given privileges on the reservation to a white man who has no interest there. He does whatever he pleases on the reservation, as though it was his own. Is that allowable? I crave a piece of paper showing whether he has a right there. I do not wish that man to be in my way there, relative to the land that was bought for me to reap the benefits of.

We have never had any trouble with the white men who are married in our people because there was, so to speak, a line between us.

The temper of the man of whom I speak is so violent that once this summer he was aiming at me with his gun.

Mr. RICE. It is customary for your Great Father to send commissioners to make treaties, and then send others to carry them out, but in this case it is differently arranged. He sent us, not only to make the treaty, but to make the allotments. A man and his family need not take their land all together—one can take his in one place—agricultural land—and another can take hay land, and if there is a piece of sugar bush, one can go and take that.

It is left to us to say what land you shall take under the act, and where, but we want you and the White Earth people to make your own selections, when we will confirm them.

To show you that we have respect to the right of the Indians I will mention that at Red Lake, after the negotiations were all over, we called the Indians up and read the roll to them to decide who should stay there and who should not. We left it to the Indians. Notwithstanding all the care taken they made a mistake and sent all the way down to White Earth to have it corrected. We did the same at White Earth, and we intend to do the same with you. We shall not do anything against your interests, and if there is any difficulty we hope to have you satisfied at any rate. The white man has no right to take anything from you. If you have any bad white men there it is an easy thing to send them off. The Great Father has now adopted an entirely different policy towards his real children. He has arranged a way to settle difficulties without resort to hard words or blows, and when we come down to Pine Point we will look into your matters and do what we can for you. At White Earth some white men had selected land, but they were stricken from the rolls. The white man has no right to buy your land or your improvements.

The law says expressly that no white man shall buy your allotments, although if one of you is not satisfied

with his selection and wishes to change with or sell to another Indian, with the consent of the Secretary of the Interior it can be done. If there is any white man there interfering with you it should be reported to the agent, who has the means to correct it.

PINE POINTER. Will the people of our band receive under the bill all the benefits that the White Earth people got?

Mr. RICE. The same benefits.

Council was then adjourned.

SIXTH COUNCIL AT LEECH LAKE.

AUGUST 14, 1889.

O-GE-MAH. I am addressing my people, and I wish the commissioners to know what I am saying. It is this: First, If you should accept of this proposition, it is essential that you should understand all the points contained in that instrument. We must ask questions, and then have them answered. A great many things escape our memory. If this meets your views, and I know it does, that will be our way of procedure.

(The friendly Indians were largely present at the opening of the council; but those opposed to the negotiations came later and with such noisy and hostile demonstration that the business of the council was, for a time, interrupted. The hostile Indians were demonstrative and threatening, and clearly expected to intimidate the commission and the friendly Indians, so that no more councils would be attempted. Signally failing in this, they became quiet, and after a period of silence one of their number came forward and said that the occurrences of the morning were not expected by a majority of the band and were not approved by them, and that it was their earnest wish that it might be wiped off the paper and not be sent to the Great Father at Washington. After a short consulta-

tion it was agreed that their wishes should be complied with; it was accordingly stricken from the record. From this time on, no further hostile demonstrations were made, and the commission proceeded with its tedious work without further interruptions.)

RUTH FLAT-MOUTH. I have a few words to say to the Pillagers, to my relatives, those living in poverty together at this place. It is twelve years since I adopted religion. I feel in my heart that I have a duty to perform, in pitying every person who deserves pity, and I ask the Master of Life to help me in my efforts. I think that I am helped.

I have been trying very hard and I have succeeded in my efforts to carry myself so as to command respect. No one has given me any lessons. What I am going to say comes from my heart. I do not believe that it will be possible for any person to state to me just exactly what I think. I think it proper to carry individual ideas, and I wish to do so. While hearing your several discussions I have been listening very attentively. I have understood that you were to be of one mind and a unit in feeling. It has pleased me very much when I heard you were to be so, and I hope and wish that it should take place. I ask every day for the divine aid in this understanding on account of my race, and pray to Him that He shall have pity on the Indians in relation to this matter, especially those who are ignorant and do not understand anything. My relatives, it is the greatest and most sincere wish of my life that we should be pitied by the Master of Life and that He should be pleased to spread over us peace, so that our village here shall have harmony in it and not turmoil.

Now, about what the white man has enacted and which now lies upon the table. I wish that you should hear me and take pity on my words. I wish you all to have your ears well open so that you can listen, that you should understand for yourselves what is good. It is easy to understand what is good, and it is just as easy to listen to

the evil spirit. It is my sincere wish that you should all listen attentively, so that you may understand everything that is said to you. I remember my father when he used to live on this earth, and I know very well that at the time of his death he left me the hereditary chieftainship, but it was my wish that my brother should carry the burden which I did not wish alone, but my brother is not here to-day on his own land. I am the only one who represents our father now on this reservation, and I shall follow the track which is good. That is the way I am going to travel. That is all I have to say, and it is my sincere wish that the chiefs should talk after me.

Mr. RICE. I know how it is with you; that you are liable to be misinformed. We know of the messages sent from below by your enemies. We know that promises were made and letters written. We know that one was written telling you that if any one was arrested he would not be punished.

Your old men are passing away, and soon will be gone. The young men here will soon take their places. It is wise for the young to listen to the old, because the responsibility now upon the old will soon be upon their shoulders.

I am not surprised that some of the young men, when they saw these papers, supposed they were brought here, for you to sign. That is not so. All that are here are to enable us to give you the information you desired. I also know that no one can listen or speak properly when he is excited; so we will sweep away all that occurred this morning.

We know by these papers sent from Washington, which many of you have signed, that you wanted your Great Father to permit you to remain here. After long consideration, the Great Council consented that you should remain. We can now appreciate how uneasy and alarmed you were when told that our object was to remove you. I confess I was mistaken in the Pillagers when I came and learned the thoughts that occupied your minds. I did

not suppose any one had been so wicked as to try to make you believe that you were to be compelled to leave the homes of your fathers. After all the stories had been told you, I can see where the trouble was. We bring you the most solemn assurances, not only in words but in writing, that all those who wish to remain here can do so. We are authorized to tell you to take your allotments wherever your please—your hay lands, lands to cultivate; take your sugar bush; take anything that can be of use to you, except the pine. We are not only authorized to tell you this, but to carry it into effect. We are empowered to give you your allotments, with the title to them. You are to have the first choice. Go and take whatever you please. Take it, and it will be given to you. Not given to hold as you hold this land now, but the patent will be given you. Every head of the family takes 160 acres, which is a very large farm. Every single man and woman each takes 80 acres, and every child takes 40 acres, which is selected by its father, or its mother, if it has no father. Every orphan who is not of age receives 80 acres. When this shall all be done, you will cease to hear anything more of the troublesome whites.

We invited Rev. Mr. Beaulieu and Mr. Fairbanks here this morning, and others, to see that our words were not misunderstood. We have granted your request that you should have your own interpreter.

You have been told that you will have to divide with a great many. That is not so. You divide with no one; others divide with you. Your brothers of the White Earth Reservation have sold more pine land to be thrown into the common pool than all you have got. The Red Lake Indians put into the pool twenty dollars and more where you put in one.

There are friends of yours here who can read and who know all this. There are men who have made you believe that this proposition was sent to you by your enemy. Would an enemy send you money in advance of the sale

of any of your lands? Before a foot of your land is disposed of, the Great Father sends you \$90,000 per year. Now, we can not tell you exactly how much that will amount to per capita, for we have not taken the census of all the Indians yet, but we have gone far enough to know that put on top of what you now receive it will amount to over \$10 each—that is, for every man, woman, and child. It is also provided that if you wish to have any portion of it expended in farming implements, it shall be done. If not, it shall be paid to you. But it is left to you to say whether you will have it all in money or not. Now, when each man, woman, and child gets an allotment, how much will you have sold? What I have told you is just what you asked for in this paper, excepting that your Great Father, in consideration of certain matters being unsettled, will send you the \$90,000.

These are matters we wish you to consider. Cast from you all you have heard contrary to what we say. The greatest responsibility rests upon you. Not only upon the chiefs, but upon the braves and the young men.

BIG DOG. I am telling the chiefs to be very careful in what they say in their talk. I shake hands with you. This is a matter of the utmost consequence. I am speaking to the chiefs, the braves, and the young men, telling them to take into consideration that there are many here now who will not be here fifty years hence. Nor will those commissioners, by their looks. But there will be some people amongst them who will carry this out.

(Kay-ke-now-aus-e-kung made a speech to the Indians which he did not wish to go on record, in which he counseled further consideration of a treaty.)

NOW-WE-GE-SHIG. My friends, we now understand everything you have just said. Will you please not to hurry us, but allow us to deliberate on the matter.

Mr. RICE. There is nothing gives us more pleasure than the prospect of your being united, because otherwise

you can not be strong, and I shall feel whenever a Pillager visits me in St. Paul, no matter whether he is an old or a young man, that I can take him by the hand, as I always have done. Now, that we have got down to business, we hope you will take in consulting all the time required. Any misunderstandings amongst yourselves must be settled by you.

An adjournment was then taken, at the request of the Indians, until 4 o'clock.

AFTERNOON SESSION.

Bishop MARTY. This bill will benefit the old men, and it is especially arranged for the good of the young men. If the young men had now plenty of game, then I would say to them, as I said to the Sioux, "As long as you have plenty of buffalo, stay as you are;" but you know as well as I do that the game is fast disappearing, and that there will after awhile be none left.

During the fourteen years I have been with the Sioux the young men have concluded to take lands and go to farming, making a living in that way independently for themselves. Instead of going a great distance for berries, plums, or other fruits, they have in their fields and gardens whatever they wish of vegetables and other good things. Instead of running a great distance through swamps and over stumps and stones after moose or deer, they have the cattle right in their yards when they want meat.

The lands the Chippewas have are even better than those of the Sioux. But you need to make use of the lands, with horses, cattle, and farming implements of every kind. Among white men, if one needs anything, he has to sell a part of what he has, buying with the proceeds that which he needs. The Indians can not do that because they are not very smart at making a bargain and generally do not get a good price.

We have an example of this in the Indians of Lake Superior. They have sold their pine, and to-day are as poor as they ever were. Your Great Father does not want you to lose your land and your pine in the same way. He first wants you to have all the land you can use, and then wants you to sell the remainder, which can be sold on your behalf at the very highest price. With the proceeds he will buy whatever you need to make you prosperous farmers. I said to myself, in thinking it over, if the Sioux can succeed so well, surely the Chippewas, who have always been a peacable and tractable people, can do well. So I conclude, although it is pretty hard to travel in this country, and I was very sick on my way back from Red Lake, because I am an old man now, I concluded that I would come and talk with you so you would not lose these advantages, but be benefited by it just as the Sioux are. So I am here now to explain matters and answer all your questions. This is an important moment in your lives, and we can not take too much time to ascertain what is best and put it into effect.

The Great Spirit who made you all wants you to have plenty in this life and to be happy when you reach the other world. He has given us reason so that we can see what is good and what is bad, and we must make use of that reason.

He has given us eyes; but if we shut them, we do not see. If we use our reason, we can discover what is best for us. I have already prayed to the Great Spirit to help you to understand what is best for yourselves and your families. I shall not give it up until I see you started on the right road.

Commissioner WHITING. My friends, I had purposed to say a word to you this afternoon, but the good bishop has come and has given you an interesting talk. As I believe you came this afternoon to ask questions of the Commission, I must not take up a single moment of your time, except so far as any inquiry may be made which I am able to answer.

Some time before we part I want to speak a word so loud that every Pillager shall hear. The chairman will now give his attention to any question to which you invite it concerning this bill.

NO-DIN-AH-QUAH-UM (after addressing the Indians). It has been understood that any excitement or ill-feeling in these councils should be put aside, and it is essential that it should be.

We have always expressed our feelings relative to our friend who has paid us a visit here. We have expressed ourselves in such terms that it can not be mistaken that it was a pleasure to us to see him. Although circumstances have arisen which were unpleasant, it now seems brighter, and we will proceed to business on that basis.

While our friend was on a visit to the other reservations we heard that he had had a misfortune, having lost his brother, and that he had to go to St. Paul relative to that. We said that we would cast everything to one side which would cause excitement or ill-feeling. We have heard that there was to be an arrest there of a young man, on account of that transaction, this morning. We wish to know if that is a fact. We understood that his name had been put down. Just see; the Master of Life listens to us. We sent for one of our ministers to implore divine aid. We wish everything should go peaceable. Have we asked in vain? I ask for my satisfaction and that of others. Here is a bishop and a priest who have come here. They are men of prayers, and we wish everything conducted with peace and a good feeling.

MR. RICE. I had supposed that all that had occurred this morning was buried.

RUTH FLAT MOUTH. I have been permitted to ask a few questions. I wish to know what will be the value of the land which troubles us so much and which was borrowed from the Pillagers? Also, what will be the amount paid for the damages done by the overflow, which destroys

our subsistence? That is all I have to say. This is all I am permitted to ask. We wish to know what the prospects are of obtaining anything for the land which we loaned, and for the damages for the reservoirs.

Bishop MARTY. I am sure that when the attention of Congress shall be called to this matter that they will pay you a reasonable sum for the land you gave for the Menomonees. Congress never acts upon anything until the matter is brought up by one having authority and in whom they have confidence.

As we have been selected by the white people to come here and speak to the Indians in their name, Congress will listen to us when we speak in your behalf. The other two commissioners have already promised to bring this matter before Congress, and I am only too glad to join them in it.

The claims arising from the reservoirs are more recent, as it is only three years since the damages were estimated by commissioners appointed by the Government. It is now well known what your claim is, and it needs only to be brought before Congress to be allowed.

I told the men at White Earth why these grants had not been made sooner by Congress. It was because it was feared that the money would not do you any good; that it would slip through your fingers, like other money you have received. But when you accept this treaty and thereby show that you wish to make a fresh start, then the means will be given to you. If you accept this offer and sign the treaty, we can go before Congress and say, "Here is a people who are ready to make the very best use of what you give them. These men have sense, thinking not alone of the present, but of the future; not only of themselves, but of their children." We know that the majority in Congress, who are friends of the Indians, will be glad to hear it and will grant their petition.

O-GE-MAH. My friend, I wish also to ask you a few questions. My friend, do not let my words offend you.

This is the first thing the Pillagers wish to know of you. It is because all these other persons, who have made these former bargains, our old men, our fathers, most of them have died off, and a great many of our young men think, and they think that they think right, that they ought to have these old affairs settled before they enter into any new arrangement.

My friend, when we heard that you were coming here, we thought that you were standing on top of what is due the Pillagers. My friend, I speak to you because I know you are in power. I know you have the strength, which is why the Pillagers do not want to step over the old affairs, and begin a new one. Our fathers, who made the arrangement with you, told us, always to keep in view the land that had been borrowed from us. "Some of these days, while he is living, just ask these questions," of you my friend.

About the reservoir dams, my friend; you can not imagine the damages done to all our people in the way of subsistence. It is the sincere wish of all the Pillagers that you should be capable of managing so as to enable us to come to an arrangement relative to all these things. The men, women, and children demand it of you. Now, my friend, do not be surprised at what I tell you. The reason there is so much trouble with these Pillagers is, the promises and the faith that has been broken with them; so many promises made have been broken that they are suspicious about any promises made to them now.

Now, my friend, I shall talk to you of something else. At the time the Pillagers went down to Washington and ceded a large portion of the country, there was a promise made of some money that should go to one side—the utility fund—for the use of the Pillagers here. My friend, I am a little foolish, and if I had not been I would have saved the paper which was given to me in St. Paul. What I allude to in that paper, I took \$300 of the money to bring me here when I was coming back. That, my friend,

is what these Indians ask of you to-day, the utility fund. The Pillagers say that they wish our friend would cause that money to be placed in our hands.

At another time when they were paying me here, they used to put some money into my hand for the services of my band, but while they were paying me, that money disappeared. Why does our Great Father take away from us that which he had promised to give us? I never take back any land that I once sell him. That is all I have to say, my friend. This other man will now speak to you.

Mr. RICE. It is very hard to answer some questions. It is sometimes very difficult to give reasons, even when you think you have them. In regard to the land you lent and in regard to the reservoirs, I have done all I possibly could to keep the matters alive and keep them on the books. But you all know how it is; when you see a big thing little things are lost sight of.

If we could do so, we would take all these back matters and put them into this, but as I explained to you the other day, should we do it, the whole thing must go back to Congress, and how long it would remain there no one knows. But as it now stands, if it is successful here, the President's signature makes an end of it. But the Great Father told us to listen to all you might say, put it in writing and send it to him that he might look it over, which we hoped would be satisfactory to you.

After we received our appointments, we met in St. Paul, and spent several days consulting as to what course was best to pursue. When this business is disposed of, we can all go to work and see that justice is done as to past transactions.

Council then adjourned.

SEVENTH COUNCIL AT LEECH LAKE.

AUGUST 15, 1889.

O-GE-MAH. What I want to say on behalf of the Pillagers is that matters should be pointed out to us in such a way that it will be impossible to misunderstand. It is absolutely our wish, and we covet to understand this matter thoroughly. We will, during the day, point out the different points on which we want information.

NO-DIN-AH-QUAY-UM (after telling the Indians that they should begin to ask questions). The time has arrived when you should explain once more the whole nature of this agreement. How many bands will be included in this agreement of consolidation? How much will each person, including the children, be entitled to? Will it fall to our lot to remove from this place? Will there be any land left for children who may be born hereafter?

Bishop MARTY. As the other two commissioners have already spoken to you of these matters, I will talk to you this morning. You will see that we have the same understanding, because I will tell you just what has already repeatedly been said. All the bands of the Chippewa Indians in the State of Minnesota are included in the consolidation. You are one people, and Congress wants you to be all treated alike. It is also the will of the Great Spirit that the Indians should be one family, one people, and that they should love each other as brothers. Is that a satisfactory answer to the first question?

O-GE-MAH. I understand that.

Bishop MARTY. The second question was whether you would be allowed to settle here or would have to go elsewhere. Congress offers you the privilege of remaining here or going to White Earth. After you are once settled permanently you can not be removed. There is a great difference between this and all other treaties heretofore made, when men would come from the Great Father to

you and leave after making promises and never come back. If that had been the plan this time I would have had nothing to do with it, as, if it had been like other treaties, a later messenger might have repudiated what we do. We three have been appointed, not only to get your consent, but to make allotments. Every one of you is to take the land to which he is entitled, when we will make report to the Great Father and procure the patent for him. Our work will not be done until each man has the writing for the land which he and his wife and his children own. You will then hold your land by exactly the same title as the white man. To make sure that you do not lose it no white man can buy it for twenty-five years. So the land you select is to be yours forever, and it will be free from taxes for twenty-five years.

No land will be reserved for children born after the allotments are made, because every family will have so much land that it will be sufficient for them and their children. When a father or mother dies the land will go to the children, and when a child dies the land will go back to the father and mother, and when the parents are dead it will go to the brothers or sisters. There will always be sufficient land because it will remain in the family. Does the speaker understand it?

NO-DIN-AH-QUAY-UM. Yes.

KAY-ME-WUN-USH (after telling the Indians that he did not wish his motives to be misunderstood by them). Well, my friend [Mr. Rice], I suppose it has been ordained that we should meet. It must have pleased the Master of Life that we should ask these questions of each other. I shall inquire for the benefit of all the Indians and the mixed-bloods. At what time will the allotments begin to be made where you visited before coming here? When will the Indians be in possession of what you promise them? Will the Indian select for himself, or will a white man select for him? When is there a chance of our receiv-

ing remuneration for the land we loaned the Government? That is all that I have to ask at present.

Mr. RICE. In regard to the allotments, you can take them at once. After this agreement is concluded, you need not wait a day. You are allowed to make selections yourself, for yourselves and for your children. Your agent is authorized to select for the orphan children. I suppose he will consult with you. He is here and can speak for himself.

We received news yesterday that the White Earth Indians were tumbling over each other in their haste to secure their allotments. Their land is, however, surveyed into lots, which yours is not as yet. The law requires that whenever your lands shall cross a line there shall be just settlement between you before the deed is given, but that does not prevent your taking possession at once. One of you may have to move a little to one side or the other in order to let the Government lines come straight, so that you will always know where your boundaries are. The money is already appropriated to make the survey, and as soon as that is done we are authorized to come back here and give you your papers.

The head of the family must take his 160 acres in one place, but he can locate his children around wherever he pleases. That is arranged so that you may have agricultural lands, sugar bush, hay lands, whatever you want. If we can get around in time the survey will probably be commenced this winter, as the money is already in the Treasury. We understand that the outside lines have been run, and if so, it will not take a great while to subdivide into smaller tracts.

In regard to the land that I borrowed of you so many years ago, all that we can say is that we will go to work at once and see what we can get for you. We give you our word that we will do the best we can.

WAY-ZOW-WE-GWON-ABE. I have also a few questions to ask our friends. Will there be any pine left for the

use of the Indians on this reservation? Another thing, I am very deaf; so deaf it is hard for me to understand. That no one will be deaf, but that all these Indians shall understand, we wish as definite an answer as possible. We do not wish to hear the words "may be" or the word "if." Referring to this new payment, how much do you suppose will be actually received per capita?

Mr. RICE. We know that out of the \$90,000 which your Great Father lends you each man, woman, and child will receive nearly \$10. We do not know exactly, because we have to take the roll as we go along. We know it can never be less, because after the sales of the lands begin the amounts paid you will increase. It will continue to increase until the sales, less expenses, shall amount to three millions. It will be different from other treaties, as instead of decreasing the amount coming to each will increase.

In regard to pine, we have already recommended a mill for Red Lake and a mill for White Earth. We shall also recommend one to be built here, and if successful you will have lumber to build houses and for other purposes. But after the fund shall amount to three millions you will have money to buy whatever may be necessary.

KAY-HE-WUM-USH. Sometimes I feel it a burden to be pushed forward so much to ask questions, but I have so much to say. There is another thing that all these Indians and mixed-bloods ask of you. The land that our fathers ceded to you in Washington, and which we are still in chase after; at the time of the cession in Washington I was there, and remember having seen you sitting with the commission. The Pillagers have different stories and versions of it. We wish you to state what the size of the reservation for the Pillagers was. Sometimes it appears to me like a meal of victuals, as it were. The more you eat out of that meal the less there is, and it seems as if sometimes this meal of ours is large, and at other times it appears to have dwindled into insignifi-

cance. Is there any one who has taken a morsel or a bite out of that, so as to make it look small at this time? I remember very well the time the paper was handed over to you to read about the lines of the reservation. That is all I have to say.

Mr. RICE. I remember very well all about the treaty. I have it over here in my room. There has never been anything intentionally taken from you under it. I have sent for the treaty and will read the boundaries to you. While I do not know that there was, there may have been some little mistake in the survey, owing to the change in names. An Indian stated that the blame would rest upon the surveyors.

The boundaries, in the treaty of 1855, began at the mouth of the Little Boy River; thence up said river to Lake Hasler; thence through said lake to its western extremity; thence in a direct line to the most southern point of Leech Lake; thence through said lake so as to include all the islands. That is for the Pillagers of Leech Lake.

The executive order of President Grant, dated November 4, 1873, recites the following: Beginning at the mouth of Little Boy River; thence up said river to the first lake and to the southern end of the second lake on said river; thence in a direct line to the most southern point of Leech Lake.

The additional land described in this Executive order was to be withdrawn from sale or other disposition and set apart for the Pillager Indians. So this reservation has been growing larger instead of smaller.

(A map was then produced and the reservation lines or boundaries shown upon it.)

(John Bassett then pointed out on the map the way he said the Chief Flat Mouth understood the lines of the reservation.)

JOHN BASSETT. Is that in accordance with your understanding of the treaty of 1855?

Mr. RICE. I do not know any more about it than is indicated on this map.

NOW-WE-GE-SHIG. When Jim Whitehead was here he told the Indians there was a place there where there was very nice pine, near Little Boy River. He said not to mind it, because the time would come when this matter would be remedied.

Mr. RICE. That is why this Executive order was made, to include that. That was made sixteen years ago, and is just as you wanted it then.

NOW-WE-GE-SHIG. We were never told when or for what cause that piece was cut off by the surveyors.

Mr. RICE. It was a mistake in the name of the lake, but the order of the President gives it back.

KAY-ME-WUN-USH. Every one don't understand; when was this Executive order issued making this larger?

Mr. RICE. November 4, 1873; sixteen years ago next fall.

KAY-ME-WUN-USH. There is no time lost in these questions. How small was the reservation before it was enlarged by this executive order-

Mr. RICE. What the President gave you then was 18 miles long. It was 6 miles wide at one end and tapered down at the other end. About three townships were included, some 70,000 acres of land.

KAY-ME-WUN-USH. We are particular in asking this because some white men are locating and settling inside the reservation lines. They have camped and selected some very nice pineries.

Bishop MARTY. That would not do them any good, because they can not hold such land.

AFTERNOON SESSION.

O-GE-MAH (after addressing the Indians). My friends, no one urges me to speak. I have been a listener here. There are only two sentences that I shall utter. Although the matter has been submitted to you since the beginning of these councils, we wish once more to ask at what time, in your opinion, shall we be paid, if it can be effected, for the money for the damages by the dams? That is one question. As far as I am concerned, I have put every other thing into my heart, and I accept everything you have told me. That is all I have to say. (Addressing the Indians.) You must speak very frankly and openly, and if you have anything to ask, it will be listened to.

Mr. RICE. The Great Council meets this fall. We are in hopes to get everything before your Great Father before the Council meets, and have him recommend for adjustment to the Council the reservoir and all other unsettled matters. We hope the appropriation will be made next winter, so you can get it early next season. We shall say to the Great Father and to the Great Council that if you ever will need it it will be next spring.

Bishop MARTY. I told you yesterday that one reason Congress did not send you the money was, that they were not sure you would make good use of it. At present your situation is like that of a pail without any bottom, in which no water will stay no matter how much you put in. No matter how much money is given the Indians, as they now live, they are always poor: but this treaty, when accepted by you, will be like putting a solid bottom in the pail, so that we can tell Congress that money may be paid and will remain with you. If we can tell Congress this winter that you have accepted this, and are going to work and make good use of what you have, they will pay what is due you. If you should not accept this, your friends in Congress would have no strength, but if you

all take hold of this, you can make us strong so that we can do this for you.

KAY-KE-NOW-AUS-E-KUNG (addressing the Indians). The words uttered by that man are rather a surprise to us. I do not wish to say anything to antagonize his words, but that was not the understanding at which we had arrived. We had something else to say, but let us beg a little indulgence to allow us to think over the matter more thoroughly, and to-morrow will be the great day of the negotiations.

WAB-ON-A-NO-NE. Now that you have stated the object of your mission and questions have been propounded on both sides, we have arrived at a crisis where we must understand each other. All that I have to do is to look to my chiefs here, who are going to regard the interest of the children hereafter, and for what will be our support in the coming time.

KAY-KE-NOW-AUS-E-KUNG. I wish to relate facts only as I see them. I wish to state them to Mr. Rice, because he is a very old friend and knows a good deal of our business. It can not be possible that our friend, Mr. Rice, is ignorant of the burden that he was carrying when he came among the Pillagers. The Pillagers had this idea all the time—that they wished to have that Leaf River matter settled, and also the dam arrangement. It also depended a great deal upon that being settled before they made any new arrangement. They had made up their minds that there should be no arrangement until these back affairs had been settled. Had they been you would have achieved your object immediately. The Pillager Indian made up his mind that he would accept no proposition otherwise, and this was their ultimatum. [Shaking hands.] There is just one thing that I regret, and that is, that the Government did not have you bring to us a big bank check.

EIGHTH COUNCIL AT LEECH LAKE.

AUGUST 16, 1889.

NO-DIN-AH-QUAH-UM. I wish to state that I think that what those commissioners bring is a very heavy load, but I understand it. I have been advised by no one. No one has invited me to touch the pen. What I have said is of my own volition.

I should have a very small allotment of land myself, compared with those who have large families. When we heard that our friend would arrive here, we prepared to receive him as he should be received. The emblem that I see floating above us, that is the sign of good feeling, of peace and friendship. I thoroughly believe that it is the intention to fulfill everything in the agreement. We ought to be guided by the course of our relatives who have accepted this agreement. I myself believe that it is all done in good faith and that the Indians can rely on the fulfillment of everything that has been said. We are told that if we accept the propositions made, the matter will be laid before our Great Father in sixty days, at the time when the first snow falls. We call upon the bishop. He is an apostle of Almighty God, and would of course not say otherwise than as God told him. I will ask these commissioners to raise up their hands and say that they will fulfill the arrangements made, if they are serious with us. I understand that just as soon as I get my allotment of land in severalty, it will be like a rope put on me and I will be attached to it so it can not get away. Also, that we can then, like white men, go here and there and fear no one's menaces as long as we behave ourselves. We do not understand that the lands in severalty will chain us to our places. It seems to me a very difficult task to have all the land allotted around this lake so that no one can come inside the land we have marked. I think that the Great Father is about to utilize that land on the other

side here, that which belongs to the Chippewas of the Mississippi. Do you not know that we were told we did not own a single foot of land on this reservation. As I understand it, the United States, on account of its sovereign power, owns all the land in the State of Minnesota. When I was a young man I went to the Pembina settlement and saw there the stake that marked the international line. On one side of that stake was one power, the power of our Great Father. My wife is a Mississippi Indian, and is entitled to the Mississippi lands. There is nothing left there, because the whites have robbed that section of the country of everything that is of any value. The Leech Lake Reservation is the place where I should want to abide.

Mr. RICE. What has been said by the man who has just spoken is the truth. We are not only ready to attest it here but also to attest it before the Great Spirit. The white men go into the country in advance of the surveyors. They are permitted to remain there, but they do not own the land until it has been given them in allotments.

There is one point upon which we must understand each other, and that is in regard to the reservation here. You will be permitted, before the Great Father takes possession, to take your allotments. No white man will, under no circumstances, be permitted to come in here and take any piece until you are all satisfied. But after you have got your allotments you have nothing to do with what is left. That is the point I wish you to understand. As to going where you please, you can do it as well as the white man and under the same circumstances. When a white man travels he must behave himself. That is your only restraint. You will be permitted to take your allotments in White Earth if you wish to. Not pine, but you can take the sugar bush, or any other timbered lands you want. We propose to make a paper covering all these points about unsettled matters. Then you will know

what we have promised. We will not only sign it, but a witness will sign it, and we will have it put into the paper we send to Washington. We do this so there may be no dispute after we are gone.

NO-DIN-QUAH-UM. I insist upon the raising of hands as to what I told the bishop.

(The three commissioners then rose and raised their hands in affirmation of the promises made, the chairman saying: "We promise to do all in our power to carry out the understanding.")

Mr. RICE. You have been deceived and disappointed many times, so that I am not surprised that you should put us to this unusual test.

KAY-KE-NOW-AUS-E-KUNG (after telling the Indians that the commissioners had given the strongest possible test). The reason we take so much pains in this matter is that the Government has never fully kept its promises to us in the past, and I can not be blamed for doing so when I am acting for my own benefit and for my own interest and the benefit and interest of my children.

KAY-ME-WUN-USH. My friends, the Pillagers, what slays us is the false promises of men who have come here to misrepresent things to you. I wish to ask you what has become of that which I and my children use for our subsistence and which gives us a living? Can the Pillager Indian go on the other side of this lake and select his allotment? This lake here is what the Pillager likes, here and the other side. That is the reason that the Pillager raises his voice in supplication. Another thing: If an Indian should go outside of the reservation, where the land is not occupied by the whites, could he take his allotment there? And how is the \$10 mentioned to be paid? Now, here is the point: We have chiefs and leaders of our bands. They say that as soon as we receive our allotments we cease to be chiefs. I wish an answer.

Mr. RICE. In regard to going off the reservation, the law says that an Indian belonging to no reservation can go anywhere on lands not already occupied to take his allotment. That by doing so he is not deprived of his annuities. But you can not make a selection in both places. I have told you the words of the law exactly. But as you have a reservation of your own, I do not know what construction your Great Father would place upon such cases.

In regard to the money, it will be paid to you here; that is, to such as remain here. Those who go to White Earth will be paid there. We think it will amount to about \$10.

As to the rumor about your chiefs, I have heard nothing. We are ordered to leave the decision of questions under the census to the chiefs, and that will have an important bearing upon the payment of the money and the selection of land. No government, of whites or Indians, can exist without leaders, and I can not understand why any one should wish to disorganize you. When the time comes for making the allotments and carrying out this arrangement we wish the assistance of every man—the young men and the chiefs—and we want it arranged satisfactorily to every one.

NO-DIN-AH-QUAH-UM. If a person in taking land wishes to take his own field, can he also take some sugar bush; could he make two selections.

Mr. RICE. If there is no more than one in the family, of course the different selections can be made.

NO-DIN-AH-QUAH-UM. What is meant by the "head of the family"? Does the wife come in as another person under the law as to allotments?

Mr. RICE. Yes, the law says, "The head of the family and other persons."

Commissioner WHITING. A man and his wife can take their allotments adjoining if they please, and then the allotments of the children can be taken elsewhere if desired.

KAY-ME-WUN-USH. Now, my friends, I am getting to be an old man, and you see many before you who are advancing in age. How do you suppose these old men are going to make any progress with their lands in severalty? Also, how will the money for the damages from the reservoirs be paid to us. This was talked over three years ago, and three years before that. That was the cause of our poverty, as it took from us everything upon which we depended for our subsistence.

Mr. RICE. As to the reservoir money, we think you had better let that stand just as it was in the old treaty. In that \$100,000 was paid to you, and \$50,000 to the other Indians. It may be possible that your Great Father will be willing to add the interest, but do not expect it, as we do not promise it and can only say that we shall try to get it. But that which is coming to you will be sufficient to furnish you with something to ride in. That, with the \$90,000, will give you a good start.

NO-DIN-AH-QUAH-UM. In shaking hands with the chairman I shake hands with you all. Every one must understand the explanations made about the dams. Since the dams were built, however, we have been unable to get two crops of rice. As to that money, we are imposing many tasks upon you, but wish this matter of the money for the dams to be the heaviest one. We would like some assurance from you on this subject.

Mr. RICE. After we get through this business the matter of the reservoirs is the hardest job before us. We will do all in our power to have the wrongs redressed which have been inflicted upon you. If we can clean up all these matters next winter, we will come back feeling like young

men again. All that has been said has been taken down on paper and will go to your Great Father. If we neglect any duty you have imposed upon us, it will be known not only to our posterity, but it will be known above. As we proceed during the winter we shall write to you, so that you will know just what we are doing.

STURGEON MAN. Those who did not sign the last agreement have asked me to talk for them in this matter. The men who held the councils in that school-house three years ago, the Northwest Commission, they are the very men who asked me to go and pay a visit to our friend, Mr. Rice. At the time I refer to Now-we-ge-shig, Chief of the Mountain, and John Bassett were with me. We were promised at that time by the commission \$100,000 for the Chippewas of Leech Lake and \$50,000 for the Chippewas of the Mississippi. That was three years ago. We said then we did not want to set any price relative to that, but that we would wait until some other time. We told Mr. Rice that when we paid him a visit. Our friend, Mr. Rice, asked us, "What did they say to you about the dams?" We told him what we had been promised, and then he asked us, "What answer did you give?" We said that we did not wish to comply with the treaty. Hence we think that the question is still open. It is three years since that time. We think now that as we did not wish to comply with that treaty of the Northwest Commission, and as it was not ratified, we do not think that the award for the damages has been agreed to by us, as we did not sign at that time. Six years ago there was another price fixed by the commission—the Blakely commission. We expected that that would be the award. There are a great many here who do not wish to accept this arrangement now. All the chiefs are rather timid about the matter. They do not dare to say a word. It is time for us to think over the matter. There are a great many who wish to accept the arrangement. It is time we tried to come to some understanding. I have heard many say they were in

favor of the propositions, but we are waiting for each other, and should try to do what is best for all. We are always thinking of the raid. After this let us always do what is best for the Indians. If we see this is good for us, let us look out for the children, and let us not lose a good opportunity. I speak now very seriously. I think it is about time that we should make up our minds and bring this wrangle to an end.

WOB-ON-A-QUAY. Let us try to come to an understanding. We should be united, but we should not be too hasty.

KAY-KE-NOW-AUS-E-KUNG. Will the man who does not And if I should sign, may be a great many of my band would leave me. How do you view that matter?

Mr. RICE. If we should say that these who do not sign should not participate in the benefits, it would be a threat. All such matters were buried the other day, and we will keep them out of sight. No distinction will be made between the man who signs and the man who does not. When the money comes, those who have not signed will probably change their minds and take their shares.

Adjourned.

NINTH COUNCIL AT LEECH LAKE.

AUGUST 17, 1889.

RUTH FLAT MOUTH. I have come here again for the purpose of speaking with you about the arrangement you bring for our acceptance. I view it favorably, and I wish to say that I am very much delighted with it. I want to know if it is the desire of the Government that all of those who are living on the different reservations should participate with us. The time at which I said I would sign has twice passed, and I feel as though I had been talking in vain, and I wish now that the pen should

be handed to me that I may sign. I say this as a figure of speech, but I will do so at 9 o'clock on Monday morning, when I hope there will be no more drawing back.

KAY-ME-WUN-OSH. My friend, we beg of you to have a little more patience. Do not get tired of us. After you have left we should be sorry had there been any question unasked and unanswered.

My friend, I wish to state something relative to the dam. We wish to know whether the payment of the damages will stop with the payment of the \$100,000. You speak of the interest on the money. Can not our Great Father put a little kettle on the fire and make a medicine which will cause that interest to grow? Whenever I have any patients to attend I put my little kettle on the fire and make it boil, when I do not fail to achieve my object if the medicine is good.

Mr. RICE. In looking over my papers last night I found that two commissions had been appointed. The award of the first commission was thrown aside without being considered at all. We have examined the last award and the amount put into the treaty which has not been satisfied, and with those we shall do the best we can. We will tell the Great Father that a bottom has been put into the "kettle," and that it will hold a great deal. We will tell him and the great council how you are situated, and that with the help you need you can advance rapidly.

As we expect to return here we will do what we can to make you glad to see us again, which is all we can say upon that subject.

KAY-ME-WUN-OSH. There is another matter. There are still two of us who went to Washington at the time I refer to. It is about what the Mississippi Indians did when we were down there—about the land on the other side. I recognize you when this arrangement was made in Washington. We wish you to state about that cession of the Mississippi Indians—about the property on the other side—the piece north of the lake.

Mr. RICE. The treaty of 1865? I was not in Washington at that time, and had nothing to do with it. I was there in 1863, when the treaty was made, and this was concluded afterwards. Then they ceded the Gull Lake, Lake Pokegamon, and Rice Lake, sold all the land and took this north of here in place of it. They found afterward that there was land that was good for agricultural purposes, so in 1807 was sold, the western portion of it, for the White Earth Reservation, but kept this immediately north of you. That is the way it was brought about, just exchanging twice. Is that satisfactory?

KAY-ME-WUN-USH. Yes, sir.

NO-DIN-AH-QUA-UM. I am yet capable of working, and if I was incapacitated I would not mention this. There is one essential thing we would like you to get for us, and that is, a mill. If we have a mill I should not like to sell the whole of our pine, so that we may have something to depend upon in building.

It would also be well if we could have the boundaries of our land defined. We are now blind as to how our lands shall lie. We hope that as soon as those arrangements are completed you may be pleased to use your influence so that we can have a mill, when we can progress at once.

We would like to know when, in your opinion, we may expect a revenue from these negotiations, the \$90,000; how soon do you think it will reach us? During the fall or in the beginning of the winter there is an annuity payment made here. If this money was not here at that time, many would say, "See, we expected that money and it is not here."

I suppose it is because we have increased in number that we get a less amount as annuities than we used to. I do not speak for myself, because I am barren. We are told that we are increasing in numbers on account of the number of births, but we think the number of deaths are

greater. It would be a good thing to talk to the law-makers to make the amount of the annuities a full sum, instead of \$4.80. It ought to be a full \$5.

Mr. RICE. At Red Lake we examined into their affairs, and found they had not even a board. They once had a mill, but it was rotted down. We found the same situation at White Earth. Their mill stopped only two years ago, and they have not had a board sawed since.

Upon inquiry we found that your agent had written to Washington urging that a mill be sent at once to Red Lake, and also one for White Earth, so they are now prepared to start anew we hope. And when we got to Brainerd we wrote as strong a letter as we could to have a mill sent to each place at once.

You are in greater need of a mill than they are. We tried to purchase a board the other day and might as well have tried to find a silver mine. When we saw here the remains of the old mill it reminded us of the carcass of a buffalo that the wolves had nearly eaten. We should have asked for a mill for you, even if you had said nothing of it. Whatever else you may have, you can not get ahead unless you have a mill.

That man over there spoke the other day of your pine. We intend to recommend for each of these three reservations that the President, when he knows what pieces to stake, shall reserve enough for your use. There will be nothing taken from you, and nothing will be done until you get your allotments.

NOW-WE-GE-SHIG. My friend, the words which our woman here, the queen, has said she would to-morrow, those are the words I say to you. I know that you will accept the words that I speak.

Mr. RICE. You have asked so many questions that I have forgot to answer one about the \$90,000. There is no reason why the money should not be sent as soon as the Great Father has approved what we do.

KAY-ME-WUN-USH. Before I sign you will have the papers ready for us that you said you would leave with us. We had intended that our mixed-blood there should take a copy of that. My friends, we shall not be the first to touch the pen. You must touch the pen as commissioners first. That is what the people think who will sign. You said that you will do as you think proper. If there is anything in the paper that you leave with us which should not be fulfilled I shall feel badly. My friends, I hope you will take no offense at what I have said.

SHE-NING-GO-GOWN. My friend [Mr. Rice], do you recognize me when you look at me? My friend, I saw you at the old place. You and I were young men when we met there. I can not recognize you on account of your age—you looked so young when I saw you. That is my queen that is sitting there. I am the man that stood by the head chief Flat Mouth when you borrowed that land from me. I stood right by his side. When he got up he said, "Get up and stand by my side when I am talking with him." The man [indicating Paul H. Beaulieu] knows me well, and it is well known that I was the supporter of my chief while he was living. When you borrowed that land from my old friend Flat Mouth, you told him that you would pay him five years, but you did not stop on the fifth year; you paid him six times instead of five. You told him that you wanted to put the Menomonies there, but they were not put there. You told my old chief that when the Menomonies were well settled there—if I recollect right, you said, "You will then have what your land is worth." My friend, I have not heard what price they asked you for that land. It was our Great Father that sent you here at that time. My friend, I wish to say that I do not wish to put any obstacles in the way of this new arrangement that your Great Father sends you here to achieve.

Mr. RICE. I was glad, not only to see but to hear your old warrior. I remember well my first arrival at the old

fort here. I was greeted, before the boat touched the shore, by guns. They had in them more than powder; they had bullets in them. I know at that time that they were all warriors and all great hunters, and I knew they were friendly bullets, for none of them hit me. I witnessed there, at that time, a scalp dance, the scalps having been taken from the Sioux. I did not ask who brought them, but they were many. I do not know but our old friend here brought them, for he brought a great many. I remember well his being the friend and supporter of Flat Mouth. He stood by the chief's side all the time I was here. It makes me feel young to again meet him, as it carries me back to the time when we first met. I hope the Master of Life will spare us both until the work we have begun now is finished, and if so, our last meeting will be as pleasant as our first one.

WAY-ZOW-WE-GWON-ABE. We have forgotten to mention what might be expected from the tamarack lands. The cedar is a very valuable tree, as well as the tamarack tree, and there is a large amount on this reservation. How is that to be disposed of?

I have always behaved myself and so have a good reputation, and I want to say that heretofore, whenever we have laid anything before the agents, all that they would content us with was promises, the fulfillment of which we have never seen, and it would be better if those promises were never made. If everything had been fulfilled that has been promised to the Indians here you would see this place more prosperous than it is and more advancement, but as you see the place now the whole settlement is in ruin. That is all.

SONG-GE-GE-SHIG. I speak for the Cass Lake Indians who are here, and wish to know if you are going to stop at Cass Lake, stopping on our shores, holding council with us, and having a talk with us.

Mr. RICE. It is our intention to go from here to your village.

SONG-GE-GE-SHIG. We will meet and have a pleasant talk here.

Mr. RICE. I shall be glad to see the old ground again.

KAY-KE-NOW-AUS-E-KUNG. My friend, when do you think you will pay us another visit? Will you bring another secretary when you come again?

Mr. RICE. I expect to bring some one. Whatever business we do will be put down on paper.

KAY-KE-NOW-AUS-E-KUNG. I want to know if you are going to bring more papers to sign.

Mr. RICE. No. The papers for the land will be signed by us.

KAY-KE-NOW-AUS-E-KUNG. I want to know if the signing is stopped when you leave here. If I should not sign at all would you give me anything?

Mr. RICE. Just the same. The only difference would be that you would be eating of a deer that you did not help to kill.

KAY-KE-NOW-AUS-E-KUNG. If I should not sign, would I be allowed to go to Washington?

Mr. RICE. That is a question that I could not answer. Indians are not, however, allowed to go to Washington. I suppose you mean a delegation. The reason is, that Indians have gone there and sold their land, making agreements of which their people knew nothing.

KAY-KE-NOW-AUS-E-KUNG. That is the truth.

Mr. RICE. Your Great Father is determined that no transaction with a band of Indians shall take place hereafter without all of them knowing of it.

KAY-KE-NOW-AUS-E-KUNG. That is right.

Mr. RICE. A great deal of trouble arose from Indians going there and transacting business, which they did not

understand after they got home. The trouble at Mille Lac has been brought on by that very thing. Your Great Father told us to answer all your questions, putting it all on paper to send to him, and to leave nothing untold. He did not wish to hear any complaints hereafter about misunderstanding.

KAY-KE-NOW-AUS-E-KUNG. They are a little ahead of me at Washington, and those are exactly my own views. The reason I ask is, that I have only one child, and I wish to leave a memento for him and prepare him for the future. To-morrow, or day after to-morrow (Monday), we will get all ready for signing. It is not for a long time that I shake hands with you.

WAB-ON-A-ON-NE. I hope you will forgive me for not shaking hands until I get through talking with you. I do not wish any answer to what I am going to say. I get up to beg your indulgence, and that you will not get impatient with us. We have asked a great many questions which would exhaust any one's patience, but we beg you to have still a little more. I say this so that any one can ask questions, and that there may be hereafter no excuse for not understanding this. Have pity on them on account of their ignorance. There are a great many who do not know anything. It is difficult for them to understand, having no perceptive powers. You can see how ignorant they are when they are capable of making the demand that you should raise your hands. This is ignorance, and you must remember it in dealing with them. But the raising of hands impressed every one here. I for one was greatly impressed, and I said, "These men would not raise their hands unless they meant it." That very action opened my eyes, and I saw right before me what was good for my children. I saw the education and progress which civilization brings—I saw that at a glance, after the raising of hands. There are ten of our chiefs who have made up their minds and proclaimed that they would accept the propositions made to them. I have been advising them not

to forget to ask all the questions, as it will assist in a mutual understanding to have them all answered.

Council was then adjourned until 9 o'clock, Monday, August 19, 1889.

TENTH COUNCIL AT LEECH LAKE.

AUGUST 19, 1889.

Mr. RICE. We have the papers promised you on Saturday, and have brought two just alike. The interpreter will make their contents known to you.

(The interpreter read the paper containing a statement of the claims of the Pillager Indians of Leech Lake, after which one copy was given to Ruth Flatmouth, and another to William Bonga, who is designated secretary of the band, and who is told by the Indians present to remember that the paper is not his private property, but must be shown whenever they wish to see it.

Ruth Flatmouth then "touched the pen" to signify that she wished her name appended to the agreement offered by the commissioners, and stated that she wished to say a few words.)

RUTH FLATMOUTH. I wish to say a few words on behalf of my people. I wish to have it understood that you will use your influence so that no spirituous liquors shall come upon this reservation. It is the ruin of a great many of our people. During payments here it takes away the subsistence intended for the children. The money is thrown away for liquor. Not only that, when a man is in debt who has been furnished supplies, he pledges his word that he will pay at the time of the annuity payments, but the debt remains unpaid because of the appetite for liquor.

It is my wish also that I should be buried where my ancestors are buried.

SHING-QWON-A-QUOT. I wish to say, as I sign, that I want my bones to remain on this reservation.

O-GE-MAH (signing). The whole thing has been understood thoroughly to my satisfaction, so that I have nothing to say. But I think the chiefs here should all sign first.

Mr. RICE. We did not understand your arrangement, and you did not speak of it. Let all the chiefs sign first.

(The chiefs then signed in order of rank, the other Indians following them.)

KAY-KE-NOW-AUS-E-KUNG. I wish that there should be a spot selected so that we can make a town of our own, like Brainard, where a town can be laid out for us, not only when payments are made, but to be a central point in winter.

This big point on the other side is the place we would like to reserve, because there is lots of hay there, and it is not very large, either. Maybe the time will come when there will be no common for the cattle, and that will make a good one. It will be beneficial to all. This is an important matter.

Mr. RICE. In regard to the town site, it is supposed that that will be fixed by the agent after deciding where the best place is. Is that satisfactory?

KAY-KE-NOW-AUS-E-KUNG. Yes, sir.

Mr. RICE. That point over there is open to you all. A number of you can take it in allotments.

KAY-KE-NOW-AUS-E-KUNG. It will make good farming land. There is a place there where we can get good pine for ourselves, right opposite this place. It is called Pine Point.

Mr. RICE. Is that the wish of you all?

(The Indians said "yes.")

(Mr. Rice then added a clause to the statement or list of claims, in regard to the land on Pine Point.)

KAY-KE-NOW-AUS-E-KUNG. I want it understood that I am not talking for the Indians who do not wish to comply with the wishes of the Government, but I am talking for those who are signing now.

(Now-we-ge-shig, saying that he does not wish what he says to go into the record, stated that he did not quite know what position he would assume. He called for the chiefs who will sign or have signed, to rise, whereupon eleven chiefs stood up.)

NOW-WE-GE-SHIG. In shaking hands with the Bishop, I shake hands with you all. My friend [Mr. Rice] instead of its being buried in oblivion, we wish you to work for remuneration for the border land—the Leaf River. My friend, we know that when you have anything to do or a point to carry, you are strong and determined in your efforts. My friend, take all these fragments that are troubling us so much, and use your influence to gather them together, so that when you come to see us again, you can open your arms and we can see what your success has been. My friends, if that should not transpire—if you should fail to carry out the object, we should all be very much ashamed—all of us.

Mr. RICE. So shall we be.

NOW-WE-GE-SHIG. My friend, when you return have pity on those who do not sign, instead of being against them.

O-GE-MAH. A great many who were present at the time of which I speak are dead, but it seems to me as if it were transpiring this very day, it has been so strongly impressed upon my mind. There were the whites on one side and the Indians on the other. I felt for both, as I was in the center when there was danger in the situation. At that time the Mississippi Indians were all together to

be blamed. They came very near leading me astray, but the demonstration made was their own doing, not mine. When I saw how the matters were going I took hold and made a stir. The President thanked me that there was no blood spilled there, and it was all owing to my efforts in stopping the raid. My friends, the great chiefs told me that whenever I had a request to make, to make it. You remember that very well.

Mr. RICE. I do.

NOW-WE-GE-SHIG. That is the reason that I beg of you, if any of the chiefs do not sign, do not go from here with a bad heart. So far as I am concerned I do not promise that I will sign, but towards the last I will make up my mind what I will do. My friend, I will say again that we have the utmost confidence in the commissioners. We wish you to work for us so that whenever you come again to visit us you will be able to open your hands and show us the proceeds of your work.

Mr. RICE. We have listened to your words and know that they are correct. I know of the promises made by the President, and all the white men in power know it. Your words are all carefully taken down, to be read throughout the country. When they are printed at Washington we will send copies here, so you will know what has been said.

(Mr. Rice then read the addition made to the list of claims.)

KAY-KE-NOW-AUS-E-KUNG. I am addressing the Pillagers. I signed for the Northwest Commission, and it did not amount to anything. I am now about to sign again, and if this don't amount to anything I would rather be taken and strangled by the neck with a rope. Now what I am going to sign, I hope what I have been told shall come to pass. I hope you will get the two-thirds majority. That is all.

NOW-WE-GE-SHIG. My friend, a great many of my band told me that they would not sign, and I do not own them. You can not imagine how pleased I am with the assurances you have given. I now shake hands with you and sign.

WOB-ON-A-QUAY. I wish to say a few words before signing. I have never joined in anything before that the Pillagers have done, but I am now for you. I have considered the matter thoroughly, and you can depend upon my word. I have a thick skull, but a stout heart, and I do not wish to lie in anything I say. I now sign and shake hands with all the commissioners.

Mr. RICE. We are very glad you have considered this so long. If you had jumped to a conclusion we might have thought you were wrong, but we know now that you are right. That is the way wise men should always do.

Adjourned.

ELEVENTH COUNCIL AT LEECH LAKE.

AUGUST 20, 1889.

NO-DIN-AH-QUAH-UM. There is one thing which has been omitted, but which is essential for the success of the people here in their agricultural pursuits, and that is a boat, a steamer to take cattle or anything else, as otherwise we can not reach those places.

Bishop MARTY. I suppose all those who are here this morning have already signed the document. They have expressed sorrow that there were some who had not done so, and the wish that we should not be angry with those who had not signed, but only pity them. This shows a very good disposition, and we hope it is that of the whole band.

KAY-ME-WUN-USH. After the allotments are made, when an Indian wishes to go anywhere on American soil, will he be allowed to do so?

Mr. RICE. He will be allowed to go anywhere, subject to the same laws as the white man.

KAY-ME-WUN-USH. I speak for every man who has signed the agreement. I do not wish to express any views on behalf of those who have not signed. We wish you [Mr. Rice] would take this into consideration. The Pillagers can get nothing in the early fall for subsistence, and in the beginning of winter the kind of provision that you are furnishing us now is furnished by the traders. We get it by exerting ourselves and get it in trade. Now, how would it be if we should ask our Great Father to fill up our dish at that time? I mean in February, when we start for the sugar bush. It is a very hard time every year, so we wish that another dish full should be given us then.

Mr. RICE. After we got through our work at White Earth so favorably, the agent, at the request of the Indians, wrote to the Great Father to know if he would not allow him to purchase some provisions to enable them to get through the harvest. The Great Father did not wait to write, but sent word over the wires to your agent to purchase the provisions necessary to enable the White Earth Indians to get through their harvest. Does that look as though the Great Father's ears were closed? That is all upon that subject, although you may make known your request to the agent.

WAB-ON-A-NO-NE. I wish to say a few words. It pleases me very much to be able to address the commission. I wish the Pillagers who are here to listen to the few words that I may say, because it will be mainly addressed to my people. Then, as life is very uncertain, it may be the last chance I shall have to talk to the commission, and I hope that whatever I shall say will be received in pity.

As I am a believer in the Master of Life, I shall refer in my remarks a great deal to Him. My friends, you are well aware of what the Master of Life's Son said to the people that He met in this world. It pleased the Master

of Life to create this continent that lies between oceans and which we now inhabit, and it has pleased the Master of Life to send these persons here as a commission to point out to us the right way and how we should live.

Now you can see what ignorance will do. A great many did not even believe the words; did not accept the words uttered by the apostle [Bishop Marty] of the Master of Life; and this is the result of ignorance. You know very well that the presence of Almighty God is everywhere. He is here, before those commissioners, who are paying us a visit. This we are led to believe and do believe. Under those circumstances what have we to fear? We have nothing to fear, because we are guided by the words of the Master of Life, and everything is safe on our side, and the only thing that remains is to have confidence in Him and we shall succeed. Any person here who has not stretched his arm and touched the pen should know that the reason we accept this proposition is because we have confidence in the Master of Life, whom I mention because He holds in His hands all our destinies. It has pleased Him to have me remain on the land on which we were born. That is the way that I feel. They are but a few words, but they are heartfelt.

Commissioner WHITING. Mr. Chairman: "Pillagers, I have only words of kindness and good will to speak to you. I had heard much of you as a people, and had I followed my own inclinations I should have come to you earlier than this, but the plan of our work required that we should begin elsewhere. When our faces were turned towards your beautiful location I was glad.

I had heard that you were a people of dash and courage, with full convictions of what you should do. You are a band which has a history wide as the country. I said that had I followed my own inclinations I should have come to you earlier, but I yielded to the superior wisdom of our chairman, who, by personal intercourse, knew all about you.

I have been greatly and deeply moved by the spirit of kindness you have shown toward our illustrious chairman, and this is eminently right, because all over your history for nearly half a century the name of this man appears as your benefactor. Whether as a member of the Great Council or as a citizen of the country, he has been your friend always. In every book of treaties his name appears as your friend. In all the records of the Great Council, as you turn them over, you find that he was never silent when a word for you could be spoken. So now, when he comes to you to make this last arrangement with you, can you doubt him? I know you can not.

I come to you a stranger, but it is my highest honor to follow the way that he leads in your behalf.

In one of our councils I noticed a young man bearing upon his bosom a medal which had on it the face of the Great Father of 1854. I knew the face of the Father very well, and it brought back to my mind a scene that transpired many years ago in the Great Father's house. Your great chief at that time found that you were in trouble and danger, and he went to Washington to interview the Commissioner at the head of Indian Affairs. He appealed to the Commissioner in vain. This friend of yours [Mr. Rice], who was in the Great Council, heard of it, and he took charge of the matter himself and brought it into the Council. In an almost all-night session the bill was finally passed and ready for the Great Father's approval.

The next morning, in order that the bill might be approved, this Senator, accompanied by the great chief Flatmouth, and other Senators, went to the President's house. The great Flatmouth, after thanking his friend for what he had done, turned to the Great Father and said: "I beg you, sign this bill for the relief of my people." Taking both the Great Father's hands in his, Flatmouth says: "I thank you for the encouragement you give me. Now, when you have signed this bill, give me time to

make my way back to my people. Count the risings and the settings of the sun, and when you think I am there, look into the heavens, and when you shall see the aurora borealis with its gentle light, think that it bears to you the gratitude of the Pillagers for your kindness to them."

During some of the sessions of the councils we have held with you, this scene at the Great Father's house has come back to me with painful clearness, and I have asked myself, "What of this great emblem that your great chief chose to carry the gratitude of your people to your Great Father?" I said, "Shall this gentle light that has been the emblem of the Pillagers, that the President recognizes as the message from the Pillagers, shall it be changed into a flaming tongue of the fire, carrying back to the President only your fierce wrath—this hot flame, that would scorch the face of the Great Father so that he would be forever blind to your wants and your necessities?" If so, what shall his answer be, and how shall it be sent to you? Shall it come to you in the black cloud, laden with thunder? Shall it come to you in the fierce storm that sweeps everything before it? I confess to you when I saw the darkness that for a time surrounded us, I was afraid, and I asked the Great Spirit to show us and you the right way.

But your action has answered all these questions—has swept away the clouds and let in the sunlight of joy and gladness to us all. And so hereafter, as in the past, this beautiful emblem will continue to carry to the Great Father only kindness. And his answers shall all come back to you, borne on the soft breezes that blow from that milder clime.

And so I wish to say to you that we are hopeful of the best. Your prospects for a higher advancement are as good as those of any people. I say to you, as I said to the people at White Earth, it requires courage and perseverance to succeed. The land you have is nothing unless you cultivate it. The money that is coming to you will

be worse than nothing unless you make wise use of it. And now I say to you, as I said to your friends in White Earth, if by any possible mischance you should fail of the highest good which it is possible for you to receive, no one will regret it so much as the members of this Commission. We have lifted our hands toward the Great Spirit and said that we mean every word that we had spoken to you. And I raise my hand again and renew the pledge, that no effort on my part shall be withheld for your best good.

And now one word to your queen, who has come into these councils day by day. I charge you that after the interest she has manifested in your welfare, as the representative of a great chief, I charge you to see that no harm shall come to her. I beg you to see that no want of her's goes unsupplied if it is in your power to supply it. Ruth Flatmouth, noble daughter of a noble chieftain! I ask the Great Spirit that her bark may be gently borne to the farther shore. Pillagers, I bid you a kindly farewell.

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